

1 IN THE UNITED STATES DISTRICT COURT
2 FOR THE NORTHERN DISTRICT OF OHIO
2 EASTERN DIVISION

3 - - -
4 Annette Ryan, (K.N.A. Katz),)
5)
5)
6 vs.) Case No. 1:15-CV-02384
6) Dan Aaron Polster, J.
7 Robert McDonald, Secretary,)
7 Department of Veterans')
8 Affairs,)
8)
9)
9)
9)
10)
10 - - -

11 Deposition of Annette M. Katz, the Plaintiff
12 herein, called by the Defendant for oral examination,
13 pursuant to the Federal Rules of Civil Procedure, taken
14 before Mary Bolas-Dietz, Court Reporter and Notary
15 Public in and for the State of Ohio, at United States
16 Attorney's Office, United States Court House, 801 West
17 Superior Avenue, Suite 400, Cleveland, Ohio 44113-1852,
18 on Thursday, March 2, 2017, commencing at 9:16 a.m.

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24

25

Plaintiff
March 2, 2017

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1					1 APPEARANCES:
2 WITNESS:		CROSS	REDIRECT	RECROSS	2 On behalf of the Plaintiff:
3 Annette M. Katz					3 Elisa P. Pizzino, Esq. Attorney at Law 697 W. Market Street Akron, Ohio 44303 330-603-1913 elisa.pizzino@gmail.com
4 by Ms. Bacchus	5			265	
5 by Ms. Pizzino				263	
6	- - -				
7	E X H I B I T S				7 On behalf of the Defendant:
8 Defendant's:			Marked		8 Renee A. Bacchus, Esq. and 9 Delores P. Garcia Prignitz, Esq. Assistant United States Attorneys United States Attorney's Office 801 West Superior Avenue, Suite 400 Cleveland, Ohio 44113-1852 216-622-3707/216-622-3737 renee.bacchus@usdoj.gov delores.garcia.prignitz@usdoj.gov
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1	E X H I B I T S C O N T'D				
2 Defendant's:			Marked		1 ANNETTE M. KATZ,
3 GG				214	2 of lawful age, being first duly sworn, as hereinafter
4 HH				214	3 certified, was examined and testified as follows:
5 II				215	4 CROSS-EXAMINATION
6 JJ				216	5 By Ms. Bacchus:
7 KK				221	6 Q And it's going to be hard for me to keep
8 LL				221	7 remembering to say Ms. Katz.
9 MM				238	8 A Oh, that's okay.
10 NN				245	9 Q So if I call you Ms. Ryan, I'm seriously not
11 OO				246	10 trying to disrespect you. Can you state your
12 PP				247	11 name for the record please?
13 QQ				249	12 A Annette Marie Katz.
14 RR				249	13 Q And Ms. Katz, were you previously known as
15 SS				250	14 Annette Ryan?
16 TT				251	15 A Yes.
17	- - -				16 Q Were you known by any other names?
18					17 A LaSalvia was my maiden name.
19					18 Q Ms. Katz, we've met before. I'm Renee Bacchus
20					19 and this is Delores Garcia Prignitz. We
21					20 represent the Veterans Administration which I
22					21 will refer to as the VA.
23					22 We're here just to find out about your
24					23 claim, your complaint, your damages. None of
25					24 the questions are meant to insult you or
					25 anything, so please don't take it that way, just

	Page 6	Page 8
1	tell us the truth.	1 A Since October of this year, actually 2016.
2	If you don't know an answer, please tell me you don't know it. If I ask you a question and you answer it, I'm going to assume that you understood it; is that okay?	2 Q And prior to moving to Florida, what was your address?
4 A	That's okay.	4 A 4712 Mallard, like the bird, Pond Drive and that's Akron, Ohio, 44333.
7 Q	I'm going to ask that you keep your voice up, because it's difficult for the court reporter to take down what's being said and we don't want her to misinterpret what's being said.	6 Q And from what time period did you live on Mallard Pond Drive?
11 A	Okay.	8 A We lived there two years.
12 Q	If you need a break, please just let me know, but I ask that you ask for a break after you've answered the question. If I ask you a question that you don't understand, please just ask me to rephrase it; okay?	9 Q So that would be 2014 to 2016?
17 A	Okay.	10 A Correct.
18 Q	Are you under the influence of any medication that may affect your ability to testify truthfully here today?	11 Q And you said "we." Who's we?
21 A	Uh-uh. No, sorry.	12 A Me and my husband.
22 Q	We'll try to remind you. And we try to shy away from uh-huhs and uh-uhs, because they don't translate very well in the record. So if I say is that a yes, again, I'm just trying to confirm	13 Q Anyone else?
25		14 A No.
		15 Q Prior to living on Mallard Pond Drive, where did you reside?
		17 A I lived in Tallmadge which was -- gosh, I don't know that address anymore.
		19 Q Do you know the street?
		20 A Westvue.
		21 Q And how long did you live on Westvue?
		22 A About three years.
		23 Q Who did you live with on Westvue?
		24 A My two boys.
		25 Q Would that be Kyle Ryan?
	Page 7	Page 9
1	if you said um-hmm or uh-huh.	1 A Yes.
2	I will try to allow you to finish speaking before I start and I ask that you do the same, because it's difficult for the court reporter to take it down if we're talking over one another; okay?	2 Q And?
6		3 A Sean.
7 A	Yes.	4 Q When you moved to your address on Mallard Pond, did your two boys stay at the address on Westvue?
8 Q	Can you give me your current home address?	7 A Yes, they did.
9 A	It is 20000 Grand Lake Drive and that is Estero, Florida 33928.	8 Q You became employed at the Louis Stokes VA in October 2011?
11 Q	And where is that located? Is that southern Florida, middle Florida?	10 A Correct.
13 A	Southern.	11 Q And what position were you hired for?
14 Q	And who do you reside there with?	12 A LPN, licensed practical nurse.
15 A	My husband.	13 Q What was your initial rate of pay?
16 Q	Anyone else?	14 A \$22.
17 A	My son.	15 Q And did that change over a period of time?
18 Q	Your husband's name?	16 A Yes, it did.
19 A	Steven Katz.	17 Q And what did it go up to?
20 Q	And what's your son's name?	18 A I don't recall the final amount. I worked a lot of overtime so.
21 A	Kyle Ryan.	20 Q \$22 was your hourly rate of pay?
22 Q	Do you live with anyone else?	21 A Yes.
23 A	No.	22 Q And did that include the shift differential?
24 Q	And how long have you and Mr. Katz and your son lived in Florida?	23 A No, that did not.
25		24 Q You worked second shift; correct?
		25 A Correct.

	Page 10	Page 12
1 Q	Were you hired to work second shift?	1 A Yes.
2 A	Yes.	2 Q Do you still have that handbook?
3 Q	Were you hired into a specific unit?	3 A Yes.
4 A	Yes.	4 Q Can you provide a copy to your attorney for us please?
5 Q	What unit was that?	5 A Yes.
6 A	The spinal/traumatic/brain injury.	6 Q Were you given like a personal log-in number for the computer system?
7 Q	Rather than repeat that the whole deposition, can we just say the spinal cord unit?	7 A Not at that time until I was assigned to that floor.
8		8 Q And how long was it between the time that you started and you were assigned to the specific floor?
9 A	Yes, spinal cord unit.	9 A November 7th.
10 Q	We'll agree to call it the spinal cord unit.	10 Q So approximately how long did you have like new employee training?
11	When you started at the VA, did you have any type of training?	11 A Four weeks.
12		12 Q Once you were assigned to the floor, were you given a personalized employee log-in?
13 A	Yes, I did.	13 A No.
14 Q	And tell me about the training you received as a new employee.	14 Q When did you get a computer log-in?
15		15 A When we were assigned to the floor.
16 A	We had to go through how to take care of patients who were paralyzed, breathing difficulties, wound difficulties, and then they would train us as we went with special -- any kind of special needs that we would need, we would have to take further training.	16 Q I'm sorry, maybe you misunderstood my question.
17		17 A That was my question. Once you were assigned to the floor --
18		
19		
20		
21		
22 Q	So that was training specific to the actual spinal cord unit?	
23		
24 A	Correct.	
25 Q	Did you receive any type of new employee	
	Page 11	Page 13
1	training like "This is our policies. These are our procedures. Here's where you need to go if you have an issue resolved with your payroll" or any of that unlike your first week at the VA?	1 A Yes.
2		2 Q -- did you get a computer log-in? And was that unique to you?
3		3 A Yes.
4		4 Q On the VA computer's system, did you have access to VA information like payroll or "This is the person you go see if you have a problem with your paycheck, this is the person you go see if you have a problem with your insurance" or anything like that?
5 A	Yes.	5 A Yes.
6 Q	Tell me about your initial new employee training.	6 Q And did they send out like daily newsletters at the VA on your e-mail?
7		7 A Can you rephrase that?
8 A	The employee training initially would be like classes, going over payroll, going over their policies, what they expect of us as a nurse.	8 Q Did they send out like a daily newsletter that would have like information in it, like "This is nurses week, this is sexual harassment week" or anything like that?
9		9 A Yes.
10		10 Q I believe they were called something like The Daily Blast; does that help? You don't have to know the name of it.
11 Q	Anything else?	11 Q No.
12 A	Not that I can recall.	12 Q And at some point when you were hired, you told me you were hired as an LPN. Did you receive a
13 Q	You said they went over policies. Did they tell you where to find the VA policies and procedures if you needed to refer back to them?	13 A
14		14 Q
15		15 Q
16 A	Yes.	16 Q
17 Q	Were those policies and procedures available on the computer system at the VA?	17 Q
18		18 Q
19 A	Handbook.	19 Q
20 Q	There was a handbook?	20 Q
21 A	Yes.	21 Q
22 Q	And the handbook contained the policies and procedures?	22 Q
23		23 A
24 A	Yes.	24 Q
25 Q	Were you given an actual copy of the handbook?	25 Q

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<p>1 job description?</p> <p>2 A Yes.</p> <p>3 Q I'm going to hand what we're going to mark as</p> <p>4 Exhibit A.</p> <p>5 (Government's Exhibit A was marked for</p> <p>6 identification.)</p> <p>7 Q Is this the job description that you received?</p> <p>8 A Yes.</p> <p>9 Q Now is this job description particular to the</p> <p>10 unit, the spinal cord unit, or was this just a</p> <p>11 general job description for the LPN position?</p> <p>12 A For the LPN position.</p> <p>13 Q Do you recall receiving a training on the issue</p> <p>14 of sexual harassment and discrimination?</p> <p>15 A Yes.</p> <p>16 Q Tell me about what you recall from that</p> <p>17 training.</p> <p>18 MS. PIZZINO: Renee, I'd like</p> <p>19 to just note for the record that page three of</p> <p>20 Exhibit A is an unsigned copy and it is not</p> <p>21 dated.</p> <p>22 MS. BACCHUS: Right. I'm</p> <p>23 sorry, let me clarify that.</p> <p>24 Q This is a job description that you received, not</p> <p>25 meaning that you actually signed it and got this</p>	<p>1 during the first four weeks that you were hired</p> <p>2 at the VA?</p> <p>3 A Yes.</p> <p>4 Q And after the first four weeks once you had been</p> <p>5 assigned to the unit, did you receive any type</p> <p>6 of sexual harassment training that you can</p> <p>7 recall?</p> <p>8 A No.</p> <p>9 Q No, you can't recall it or no, you didn't</p> <p>10 receive it?</p> <p>11 A No, I did not receive it.</p> <p>12 Q I'm going to hand you what we're going to mark</p> <p>13 as Defendant's Exhibit B.</p> <p>14 (Government's Exhibit B was marked for</p> <p>15 identification.)</p> <p>16 Q This is your training record from the Department</p> <p>17 of Veterans Affairs. Have you seen this</p> <p>18 document before?</p> <p>19 A Can you clarify that? Was it a document or</p> <p>20 computer?</p> <p>21 Q This is a training record and have you seen this</p> <p>22 document or this information whether it was on</p> <p>23 the computer or in written form before?</p> <p>24 MS. PIZZINO: Renee, can you</p> <p>25 give me a chance to take a look at this? I</p>
<p>1 one?</p> <p>2 A Correct.</p> <p>3 Q Tell me what you recall about the sexual</p> <p>4 harassment discrimination training you received</p> <p>5 at the VA.</p> <p>6 A It was role-playing. They would act out certain</p> <p>7 conditions, certain role-playing and then you</p> <p>8 would have to -- they would just role-play.</p> <p>9 That's what I can take from that.</p> <p>10 Q Was this training live with people role-playing?</p> <p>11 A Yes.</p> <p>12 Q Did you receive any type of computer training?</p> <p>13 A I can't recall with us.</p> <p>14 Q When you say there was live training, were the</p> <p>15 people acting out the training in front of you</p> <p>16 or --</p> <p>17 A Yes.</p> <p>18 Q -- were you watching something where the people</p> <p>19 where acting out different scenarios?</p> <p>20 A People were acting out in front of us.</p> <p>21 MS. PIZZINO: Annette, you have</p> <p>22 to wait for her to complete her question so that</p> <p>23 you get the whole question before you answer.</p> <p>24 Q And was this live training that you received</p> <p>25 part of the new employee orientation program</p>	<p>1 mean, I'm going to object on foundation and</p> <p>2 objection on foundation. Are you asking her if</p> <p>3 she's seen this document; is that your question?</p> <p>4 MS. BACCHUS: I asked her has</p> <p>5 she seen this information whether it's in</p> <p>6 written form or on the computer before?</p> <p>7 A On the computer, yes.</p> <p>8 Q So you had access to your training records on</p> <p>9 the VA's computer?</p> <p>10 A Yes.</p> <p>11 Q I'm going to ask you to turn to where it says</p> <p>12 page five of eight and at the second entry from</p> <p>13 the top, it states that on 12 -- well, it</p> <p>14 doesn't state, but it indicates on 12/14/2011,</p> <p>15 you received training on prevention of workplace</p> <p>16 harassment/No FEAR; do you see that entry?</p> <p>17 A Yes.</p> <p>18 Q And on the number of hours, it says 1.5. Does</p> <p>19 that do anything for your recollection as to</p> <p>20 whether or not you received any training on</p> <p>21 discrimination or harassment?</p> <p>22 A Yes, yes.</p> <p>23 Q Do you recall that training now on the computer?</p> <p>24 A On the computer the training that we had was you</p> <p>25 picked -- it wasn't like specific to sexual</p>

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1	harassment. I mean, you had to choose -- you 2 didn't have like all of that information. You 3 got to choose for your hours.	1 MS. PIZZINO: Objection. Calls 2 for a legal conclusion. You can answer. 3 MS. BACCHUS: I asked her 4 what's her understanding.
4 Q	And this indicates that you received this 5 training. Are you saying you didn't choose this 6 training and undergo this training for sexual 7 harassment, workplace harassment?	5 A Touching, verbally, inappropriateness with other 6 employees.
8 A	I can't recall that.	7 Q And during the training that you can recall, did 8 they tell you how to report sexual harassment at 9 the VA?
9 Q	You don't deny that you may have received this 10 training; do you?	10 A Yes.
11 A	No.	11 Q And what did they tell you about reporting 12 sexual harassment?
12 Q	You said it was on the computer. When you did 13 it on the computer, did you log into the 14 computer under your personal log-in?	13 A To go to your manager, the Union, and we have a 14 sexually -- the EEO.
15 A	Yes.	15 Q And during this training, did you understand 16 that in order for it to be sexual harassment, it 17 has to be unwelcomed by the person that it's 18 directed to?
16 Q	And then after you would complete the training, 17 it would register on your training log?	19 MS. PIZZINO: Objection. You 20 can answer.
18 A	Yes.	21 A Yes.
19	MS. PIZZINO: I would like to 20 note for the record it's harassment/No FEAR is 21 the training.	22 Q When you said you can go to the Union, were you 23 a member of the Union at the VA?
22	MS. BACCHUS: No, it says, 23 "Prevention of Workplace Harassment/No FEAR."	24 A Yes, I was.
24	MS. PIZZINO: Okay. It's hard 25 to read.	25 Q And which Union was that?
Page 19		Page 21
1 Q	Did you receive any type of sexual harassment 2 training prior to joining the VA?	1 A The VA Union.
3 A	Can you rephrase that?	2 Q Was that Local 31; do you know?
4 Q	Sure. In any of your other employment, had you 5 received any type of sexual harassment training?	3 A I don't.
6 A	Yes.	4 Q And did the Union represent the LPNs?
7 Q	And tell me about the training that you 8 received.	5 A Yes, they did.
9	MS. PIZZINO: Objection.	6 Q Did they represent any other position, to your 7 knowledge?
10	Relevancy. You could go ahead and answer.	8 A I don't know.
11 A	Specifically?	9 Q Okay. As a member of the union, did you get a 10 copy of the master agreement, the union 11 contract?
12 Q	What you recall about your training on sexual 13 harassment prior to joining the VA.	12 A I can't recall.
14 A	A handbook and sign that you received a 15 handbook.	13 Q And you said you were hired as an LPN and you 14 were assigned to the spinal cord unit. Did you 15 ever work on any other unit at the VA?
16 Q	Do you recall any of the specifics of defining 17 what sexual harassment is?	16 A Can you clarify that?
18 A	Not that I recall.	17 Q Yes. Like if you were assigned to the spinal 18 cord unit, were you ever like reassigned because 19 of a shortage to another unit? Did you ever 20 pick up overtime hours at another unit?
19 Q	At the time that you went through the training 20 that you recall, the live training at the VA, 21 did they explain what was considered sexual 22 harassment during that training?	21 A I specifically was on that unit and I worked for 22 pay on that unit but have been on other units without pay.
23 A	Yes.	23 Q What do you mean without pay?
24 Q	And what's your understanding of what's 25 considered sexual harassment?	24 Q Teaching.

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1 Q	Teaching or as a student?	1 Q	Always there?
2 A	As a student.	2 A	Uh-huh.
3 Q	So you never picked up additional hours working on a unit other than the spinal cord unit?	3 Q	Would she be there for the whole shift?
4		4 A	Sometimes.
5 A	No.	5 Q	What about Ms. Robinson, what shift did she
6 Q	Was there ever a time where there may have been a shortage on another unit and you were redirected from the spinal cord unit to go somewhere else?	6	work?
7		7 A	First shift.
8		8 Q	Do you know what shift Ms. Noelker worked?
9		9 A	First shift.
10 A	One time I do believe I did go on to another unit.	10 Q	And if Ms. Herman was not present on second shift when you would be working and you needed to leave early or you became sick, who would you speak to?
11		11	
12 Q	On the spinal cord unit, who was your immediate supervisor?	12	
13		13	
14 A	Lisa Herman.	14 A	The nurse manager that was assigned to that shift and it was a different nurse.
15 Q	Did Lisa Herman have an assistant?	15	
16 A	Yes.	16 Q	So regardless of whether Ms. Herman was present, there would always be a nurse manager who would be assigned to your shift if she was not?
17 Q	Who was her assistant?	17	
18 A	Dawn Robinson.	18	
19 Q	And what was Ms. Robinson's title, if you know?	19 A	Yes.
20 A	Assistant nurse manager.	20 Q	You said it would always be a different nurse manager. Do you recall the names of any of the nurse managers who would have worked that shift?
21 Q	And what was Lisa Herman's title?	21	
22 A	Nurse manager.	22	
23 Q	Do you know who Ms. Herman reported to?	23 A	Yes.
24 A	Yes.	24 Q	Give me those names that you recall.
25 Q	Who did Ms. Herman to?	25 A	I can recall Doug Jenison, Mrs. Swails, Ebony
	Page 23	Page 25	
1 A	Elizabeth Noelker.	1	Winters, a lot of nurses, they were all RNs.
2 Q	So if you needed time off or you wanted to pick up overtime hours, who would you talk to?	2 Q	All RNs?
3		3 A	John Blackstone.
4 A	Lisa.	4 Q	Anyone else?
5 Q	Who was responsible for doing your performance appraisal?	5 A	That's all that I can recall.
6		6 Q	Out of these four people that you just named, did they work on the spinal cord unit?
7 A	Lisa Herman.	7	
8 Q	And what shift did Ms. Herman work?	8 A	Yes.
9 A	She worked first shift, but it flowed over into second shift.	9 Q	And to your knowledge what was their title?
10		10 A	RN.
11 Q	And for the record, what hours were considered first shift and what hours were considered second shift?	11 Q	You told me that they would be the nurse manager assigned to the shift. Were they hired as nurse managers or were they hired as RNs, to your knowledge?
12		12	
13		13	
14 A	First shift was 7:00 to 3:00.	14	
15 Q	And second shift?	15 A	I don't know what they would be hired as. I can't recall what they would be. I don't have that information.
16 A	Was 3:00 to 11.	16	
17 Q	You said Ms. Herman worked first shift, but it flowed over into second shift?	17	
18		18 Q	Of these four people that you just named, did any of them have the authority to discipline you?
19 A	Uh-huh.	19	
20 Q	Does she have modified hours?	20	
21 A	I'm unsure.	21 A	Yes.
22 Q	So are you saying that she actually would be working on second shift or that she would just sometimes be there during second shift?	22 Q	So it's your belief that they could write you up or propose suspension or anything like that?
23		23	
24		24 A	Yes.
25 A	She was always there during second shift.	25 Q	And what is the basis of your belief?

	Page 26	Page 28
1 A	Can you clarify that?	1 aides and LPNs would be working?
2 Q	Yes. Why do you believe that they had the authority to discipline you or write you up?	2 From what I can recall, it varied day to day.
3		3 On average, how many nurse's aides would work on a shift?
4 A	They were the supervisor of the shift. They were the direction. During my training, I was always introduced that this is a nurse manager and nurse supervisor of the shift.	5 Enough for each hallway so between two to three.
5		6 How many hallways were there?
6		7 Three.
7		8 And did those hallways have specific
8 Q	You need to?	9 designations? I mean, was it called hallway
9 A	Sorry.	10 one, hallway two?
10 Q	During your training, you were told that they were the nurse managers?	11 A Yes, it was hallway A, B or C.
11		12 Q So each day that you would come to work, you would be assigned to one of these three
12 A	Of the shift.	13 hallways, A, B or C?
13 Q	And who told you that?	14 Correct.
14 A	Lisa Herman.	15 Q That could vary from day to day?
15 Q	Did she specifically tell you they were the nurse manager or they would be the person who would be in charge if she or Dawn was not around?	16 A Correct.
16		17 Q And was it the same with the nurse's aides, they
17		18 A would be assigned to the hallway and that could be varied from day to day?
18		19 Correct.
19 A	Can you clarify?	20 Q And was there one RN assigned to each hallway per shift or, at least, one?
20 Q	Yes. Did she specifically say, "This is the nurse manager, Doug Jenison, this is the nurse manager, Ms. Swails, this is the nurse manager, Ms. Winters when I or Dawn are not around" or did she just tell you that they would be the person you would see if you need something when	21 A Yes.
21		22 Q And approximately how many LPNs would work on a
22		23
23		24
24		25
25		
	Page 27	Page 29
1	they weren't around?	1 hallway?
2 A	What I can recall is that when the nurse managers are not on the shift in that we worked second shift, they are in charge; specifically the RNs would be in charge.	2 A That varied.
3		3 Q On average?
4		4 A On average, we were always short.
5		5 Q On average, so there would be one, two, three?
6 Q	The RNs would be in charge?	6 A I'm not sure how many would be assigned as far as some days could be four, some days could be ten, some days could be eight.
7 A	Whoever was assigned.	7 Q Assigned to one hallway?
8 Q	On your shift, there were assigned RNs, assigned LPNs, and assigned nurse's aides; correct?	8 A Uh-huh.
9		9 Q You have to say for the court reporter.
10 A	Correct.	10 A Yes.
11 Q	Were you assigned to work specifically with one RN and one nurse's aide?	11 Q Approximately how many patients were on each hallway?
12		12 Q From what I can recall, about ten.
13 A	Correct, yes.	13 Q What was the difference between your duties and the nurse's aide's duties?
14 Q	And were you usually assigned to work with the same RN and nurse's aide?	14 A The nurse's aide could not pass medication.
15		15 Q Anything else?
16 A	No.	16 A Could not make the critical decisions as far as the care of the patient.
17 Q	Tell me how your assignments came about with the RNs and the nurse's aides?	17 Q Any other distinction between your duties and the nurse's aide's duties?
18		18 A We can delegate where nursing assistants cannot delegate.
19 A	The RN who would be in charge of that shift would draw up our duties before our meeting before our shift started.	19 Q
20		20 A
21		21
22 Q	So each day, it could change as to which nurse's aide or RN you worked with?	22 Q
23		23
24 A	Correct.	24 A
25 Q	And typically on a shift, how many RNs, nurse's	25

	Page 30	Page 32	
1 Q	And who would you be delegating to?	1 Q	What did you tell her when you asked to not be assigned to work with him?
2 A	The nursing assistant.	2	assigned to work with him?
3 Q	When did you begin to work with MD Garrett?	3 A	If there was another nursing assistant that could work with me on my hallway.
4 A	The first day out of training.	4	
5 Q	So in November of 2011?	5 Q	Anything else?
6 A	Correct.	6 A	No.
7 Q	On average in a week, how many days would you be assigned to work with MD Garrett?	7 Q	And what was Ms. Winters's response?
8 A	Many days, I saw him on a day-to-day basis.	8 A	She would see what she could do.
9 A	Working together, more days -- I don't want to speculate. I can't recall how many days. More days than not. If I didn't, I would see him too.	9 Q	When was the first time you recall saying to Doug Jenison you didn't want to work with Mr. Garrett?
10		10	
11		11	
12		12 A	Around the same time frame, the winter.
13		13 Q	Of 2012?
14 Q	I'm asking in terms of how many days were you assigned to work the same hallway on average.	14 A	Uh-huh, yes; correct.
15		15 Q	And what do you recall saying to Mr. Jenison?
16		16 A	Can I have a different nursing assistant?
17		17 Q	Anything else?
18		18 A	Not that I can recall.
19 A	At least, three.	19 Q	And what was Mr. Jenison's response?
20 Q	Now is there a central nursing station on the unit?	20 A	He wanted to know why.
21		21 Q	Did you tell him why?
22 A	Yes.	22 A	Not the first time that I asked for a different nursing assistant.
23 Q	And is that like in the center of all of the various wings; A, B and C?	24 Q	Did Mr. Jenison have any other response when you didn't tell him why?
24		25	
25 A	Yes.		
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1 Q	Did you ever request not to be assigned to work with Mr. Garrett to any of the nurses, the RNs?	1 A	He understood if I didn't want to share with him, but if I could, I stated that I just could not work with him.
2		2	
3 A	Yes.	3	
4 Q	Who did you make that request to?	4 Q	And you said "not the first time." When is the second time that you told Mr. Jenison that you didn't want to work with Mr. Garrett?
5 A	Ebony Winters, Mrs. Swails, Doug Jenison, John Blackstone.	5	
6		6	
7 Q	Did you ever make the request to Lisa Herman?	7 A	When it continued to be that I was going to be assigned with him.
8 A	No.	8	
9 Q	Did you ever make the request to Dawn Robinson?	9 Q	And do you recall when the second time was that you spoke with Mr. Jenison?
10 A	No.	10	
11 Q	When do you recall making the request to Ebony Winters?	11 A	I don't recall.
12		12 Q	What do you recall about speaking to Mr. Jenison the second time in requesting not to work with Mr. Garrett?
13 A	Can you rephrase that?	13	
14 Q	Sure. When's the first time you recall making the request not to work with Mr. Garrett to Ebony Winters?	14	
15		15 A	That it's uncomfortable to work with MD.
16		16 Q	MD is Mr. Garrett?
17 A	I'm not sure of the exact date.	17 A	Yes.
18 Q	Do you have any time frame or any reference of time frame when you asked her?	18 Q	So if we refer to him as MD or Garrett, we know who we're talking about. You told him it was uncomfortable to work with Mr. Garrett?
19		19	
20 A	Around the wintertime.	20	
21 Q	Winter of 2011?	21 A	Yes.
22 A	Yes.	22	MS. PIZZINO: Renee, just for
23 Q	So this would have been within the first couple of months you started working there?	23	the record, early on you did refer to him as MD,
24		24	so just back in the transcript if we look at it
25 A	I'm sorry, 2012.	25	when Renee first mentioned MD, we were speaking

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1	about MD Garrett. And MD is his name. It's not	1 Q So you never received a follow-up from Ms.
2	a title just for clarification. They're not	2 Swails as to any conversation she had with Ms.
3	initials for other names, so it's M.D. It's	3 Herman about whether she could not assign you to
4	capital M, capital D, MD Garrett, I believe.	4 work with Mr. Garrett; right?
5 Q	So you told Doug that it was uncomfortable to	5 A Right, yes.
6	work with Mr. Garrett. Did you tell him	6 Q Tell me about your friendship or working
7	anything else at that time?	7 relationship with Mr. Garrett when you first
8 A	No.	8 started.
9 Q	What was Doug's response?	9 A It was friendly as far as a communication work
10 A	He didn't push the issue. He just listened.	10 relationship. I guess that would be it.
11 Q	When was the first time you recall telling Ms.	11 Q And in one of your written statements, you said
12	Swails that you didn't want to work with Mr.	12 "We were friends and coworkers." Do you mean at
13	Garrett?	13 the office or friends outside of the office?
14 A	Around the same time.	14 A Office.
15 Q	And what did you tell Ms. Swails?	15 Q And would you have lunch together when you first
16 A	That I did not want to work with MD.	16 started?
17 Q	Anything else?	17 A When you work second shift, usually your nurses,
18 A	No.	18 your team that you're on would have lunches
19 Q	And what was Ms. Swails's response?	19 together on the unit.
20 A	She would ask Lisa.	20 Q When you said "team," you mean like the nursing
21 Q	She would ask Lisa what?	21 assistants, the RNs --
22 A	If she can change the assignments.	22 A Correct.
23 Q	Do you know if she asked Lisa?	23 Q -- and the LPNs? And when would you ever talk
24 A	No, I do not know.	24 with Mr. Garrett outside of work?
25 Q	Did you follow up with Ms. Swails about this	25 A He would call me on my phone, but not something
	Page 35	Page 37
1	conversation?	1 I would initiate myself.
2 A	Yes, I did.	2 Q And how did he get your phone number?
3 Q	And what was the follow-up?	3 A We have all of the employees' numbers on the
4 A	When she knew something from Lisa, she would let	4 unit. There's a book with all the employees'
5	me know.	5 numbers and addresses.
6 Q	And did you pursue it any further?	6 Q Does it also have your cell phone number in
7 A	Not with her.	7 there?
8 Q	Did you pursue it with Lisa?	8 A Yes.
9 A	No.	9 Q So you never personally gave him your cell phone
10 Q	You said "not with her," who did you pursue it	10 number?
11	further with?	11 A No.
12 A	Doug Jenison and John Blackstone.	12 Q Did you ever discuss any personal information
13 Q	When do you recall pursuing it with Doug and Mr.	13 with Mr. Garrett?
14	Blackstone?	14 A Can you clarify that?
15 A	Right around the same time.	15 Q Sure. Mr. Garrett has made representations that
16 Q	What did you do to pursue the conversation with	16 you would discuss the fact that you needed to
17	Mr. Blackstone?	17 have breast surgery, that you needed to have a
18 A	He would ask me what my reasons were and I would	18 new car, that you needed car repairs?
19	tell him the same. That it was comfortable to	19 A No.
20	work with MD.	20 Q Were you ever having any of these discussions
21 Q	Is that all you told Mr. Blackstone?	21 like when you would be having lunch where he may
22 A	Yes.	22 have just been present?
23 Q	And what was Mr. Blackstone's response?	23 A That may be, yes.
24 A	Did I talk to the other nurses that were in	24 Q Then when you said eventually the nature of your
25	charge?	25 relationship with him changed, tell me at what

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<p>1 point did the nature of the relationship change 2 as near as you can recall as to the time frame 3 and how it changed?</p> <p>4 A When he would grab my bottom or he would make 5 sexual comments to me.</p> <p>6 Q When's the first instance that you recall of him 7 either making sexual comments to you or grabbing 8 you or anything that you thought was harassment?</p> <p>9 MS. PIZZINO: Objection to the 10 word "harassment." Legal term.</p> <p>11 Q All right. Anything that you thought was 12 inappropriate?</p> <p>13 A Around the winter even before the winter months 14 of 2012.</p> <p>15 Q What do you recall happening before the winter 16 months of 2012?</p> <p>17 A He would make sexual jokes. He would make 18 comments about his masturbating and he would use 19 me as the person that he would masturbate to.</p> <p>20 Q Do you have any time frame or reference as to 21 when this type of behavior started? I mean, 22 maybe like if your kids were starting school or 23 you kind of related it to that or you related it 24 to you had something going on in your life where 25 we could kind of narrow down the time frame?</p>	<p>1 Q In the year of 2012, did you go on a family 2 vacation that you can recall?</p> <p>3 A Yes.</p> <p>4 Q When did you go on vacation?</p> <p>5 A It was around the spring. I went on a couple.</p> <p>6 Q You got to talk up for the court reporter.</p> <p>7 A I went on a couple.</p> <p>8 Q Just tell me where you went on vacation and when 9 if you can recall.</p> <p>10 A I know the vacations. The dates are a little 11 fuzzy, Kalahari.</p> <p>12 Q Do you recall what month that was you went to 13 Kalahari?</p> <p>14 A I do not. We went on a cruise.</p> <p>15 Q Do you recall what month it was that you went on 16 a cruise?</p> <p>17 A I know that it was warm outside here, but it was 18 warmer where we went.</p> <p>19 Q If you don't recall, just tell me you don't 20 recall. I understand we're talking about three, 21 four, or five years ago. Any other vacations 22 that you recall during 2012?</p> <p>23 A We went to Florida, family vacation.</p> <p>24 Q Do you recall what month that was?</p> <p>25 A That was in summer.</p>	
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<p>1 A It was around the summer of 2012 or early 2 summer.</p> <p>3 Q Early summer?</p> <p>4 A Uh-huh.</p> <p>5 Q You mean like June or July?</p> <p>6 A Yes.</p> <p>7 Q And what happened in the early summer?</p> <p>8 A It would just gradually progress. It was almost 9 a daily.</p> <p>10 Q And you say "early summer of 2012," but what was 11 the first instance; do you recall? Was he 12 making like comments to you or was it a physical 13 touching?</p> <p>14 A Comments.</p> <p>15 Q And what leads you to believe it was around 16 summer of 2012?</p> <p>17 A I remember him walking me to my car and he would 18 -- I just remember walking to my car and not 19 having winter coats on. That's the thing of my 20 recollection.</p> <p>21 Q I believe in one of your statements you said 22 that he had sent you a text while you were on 23 vacation asking what you were wearing. Do you 24 recall that incident?</p> <p>25 A I don't recall that.</p>	<p>1 Q Anywhere else that you recall?</p> <p>2 A No.</p> <p>3 Q Prior to March 27th, 2013, when you made the 4 first allegation to the police department, were 5 you aware of anyone else on this spinal cord 6 unit besides Ms. McDevitt who alleged that MD 7 Garrett had sexually harassed them?</p> <p>8 A Besides Roseann?</p> <p>9 Q Yes.</p> <p>10 A No.</p> <p>11 Q Now we're going to get to Roseann in a second, 12 so I'm going to exclude her from this question.</p> <p>13 Were you aware of anyone else in the 14 hospital who alleged that they were being 15 sexually harassed by MD Garrett prior to March 16 27th, 2013?</p> <p>17 A No.</p> <p>18 Q Were you aware of anyone else on the spinal cord 19 unit who alleged sexual harassment by any other 20 employee prior to March 27th, 2013?</p> <p>21 A Yes.</p> <p>22 Q Who?</p> <p>23 A Jessica she calls her name Love, Jessica Love, 24 L-o-v-e.</p> <p>25 Q And Jessica Love, what was her title?</p>	

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1 A	Nursing assistant.	1 A Yes.
2 Q	Tell me about the allegations by Ms. Love.	2 Q Tell me about what you're aware of.
3 A	There was another nurse or nursing assistant --	3 A The sexual talk. All the employees -- most of
4	this came from her so.	4 the employees -- sorry, most of the patients on
5 Q	Ms. Love is telling you this directly?	5 our floor were men. So it was talk that he
6 A	Yes, another employee, male employee, on the	6 would talk sexually, talk with the other men
7	floor and she reported it.	7 patients.
8 Q	Do you know who she reported it to?	8 Q Were the other male patients engaging in this
9 A	The VA police and I only know that he was fired.	9 conversation with Mr. Garrett?
10 Q	And when did this occur, to the best of your	10 A Yes.
11	knowledge?	11 Q So did it appear to you that the conversation
12 A	It came up in a discussion when we were around a	12 was unwelcomed?
13	conference table eating lunch.	13 A Unwelcomed for me, yes. Unwelcomed for the
14 Q	Who else was present when this discussion was	14 patients, I don't know.
15	happening?	15 Q And when they would have these conversations and
16 A	I can't recall. The only other person I can	16 it was unwelcomed to you, did you tell them that
17	recall is Roseann.	17 this was unwelcomed and was inappropriate?
18 Q	And she told you another male employee. Did she	18 A Yes.
19	tell you who this male employee was?	19 Q And what did the patients and Mr. Garrett say?
20 A	No, she did not.	20 MS. PIZZINO: Objection.
21 Q	Did she tell you what position this male	21 Hearsay. Go ahead and answer.
22	employee held?	22 A They would laugh.
23 A	She may have, but I don't remember if it was a	23 Q Did you ever report these inappropriate
24	nurse's or a nursing assistant.	24 conversations to Ms. Herman or Ms. Robinson?
25 Q	Did she tell you that this happened while she	25 A No.
	Page 43	Page 45
1	was working on the spinal cord unit?	1 Q Did you ever report it to any of the other
2 A	Yes.	2 managers at the VA?
3 Q	But she didn't tell you when this happened?	3 A Yes.
4 A	No.	4 Q Who did you report it to?
5 Q	Do you recall when you actually worked with Ms.	5 A Doug Jenison.
6	Love like what time period?	6 Q When did you report this to Doug Jenison?
7 A	She worked first and second shift.	7 MS. PIZZINO: Objection. I
8 Q	I mean, was she working there when you started?	8 think you need to give her a chance to answer
9 A	Yes.	9 the question. You said who or whatever the
10 Q	When Ms. Love told you this story about her	10 question was.
11	experience, had MD Garrett already started	11 Q I'm sorry, do you have another person that you
12	harassing you or giving you uninvited or	12 reported it to?
13	unwelcomed comments or touching?	13 MS. PIZZINO: I mean, we need
14 A	Not at that time.	14 to give her a chance to answer the question
15 Q	Were you aware of anyone else besides Roseann	15 completely.
16	who was alleged that they were sexually harassed	16 A And John Blackstone.
17	or inappropriately touched or received any other	17 Q When did you report it to Doug Jenison?
18	comments from anybody else?	18 A I recall after it had gone to touching on me.
19	MS. PIZZINO: Objection.	19 Q And what do you recall saying to Doug Jenison?
20	Foundation. Go ahead.	20 A That I recall sitting like around the conference
21 Q	You're not aware of anyone else?	21 table where we would have lunch or our breaks
22 A	No.	22 and just that I was appalled at the talk that
23 Q	Have you ever observed MD Garrett acting in any	23 the patients and MD talk about the sexual
24	type of inappropriate manner sexually or	24 comments as if it's accepted behavior.
25	verbally with any of the patients at the VA?	25 Q Who was sitting around the table when you had

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1	this conversation with Mr. Jenison?	1 Q If I cut you off, please say, "I'm not done."
2 A	I don't recall. I just don't that stands out.	2 You tend to pause and I'm not sure, so I assume
3 Q	What was Doug Jenison's response?	3 that you're done.
4 A	He agreed with me.	4 So if I'm cutting you off, please tell me
5 Q	Anything else?	5 that; okay?
6 A	No.	6 A Okay.
7 Q	And tell me about you reporting the	7 Q Now did you have anything else to add to that?
8	conversations that MD would have with the	8 A Yes.
9	patients to Mr. Blackstone.	9 Q What else?
10 A	Again, the conversations that I would have would	10 A Conversation with other employees, conversation
11	be at lunchtime. That he was appalled, but he	11 with patients.
12	had witnessed it too.	12 Q And is that sexual -- you believe that sexual
13 Q	Do you recall when you reported this to Mr.	13 harassment to you or sexual harassment to the
14	Blackstone?	14 person that he's having these conversations
15 A	Around the same time with Doug.	15 with?
16 Q	When you say "around the same time," do you have	16 A It would also be to me, because I feel
17	a time frame, a month?	17 uncomfortable with that kind of talk.
18 A	Within this six-month span that it started	18 Q So tell me -- I'll go back to my original
19	towards more the end where it became touching.	19 question. Have you ever observed Mr. Garrett
20 Q	In the six-month span you reported Mr. Garrett	20 engage in conduct that you believe was sexual
21	to the police in March 27th, so you're saying	21 harassment to you in front of either Ms. Herman
22	March 27th, 2013. So when you say "six months,"	22 or Ms. Robinson?
23	you mean six months would then be October or so?	23 A Yes.
24 A	Uh-huh.	24 Q Tell me when's the first instance that you
25 Q	You have to say yes for the court reporter.	25 recall.
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1 A	Yes.	1 A There was many incidences. The one that stands
2 Q	So it would be October 2012 between October 2012	2 out the most for me was the charge nurse was
3	and March 2013?	3 directing her assignments to us. MD was
4 A	Correct, yes.	4 present. The charge nurse, and I'm sorry, I'm
5 Q	Have you ever witnessed Mr. Garrett do anything	5 referring, because I can see everybody around
6	that you believe was sexual harassment in front	6 the table, and the charge nurse sat there.
7	of Ms. Herman or Ms. Robinson?	7 Q Who was the charge nurse?
8	MS. PIZZINO: Objection.	8 A I can see her face. I don't know her name.
9	Sexual harassment is a legal word.	9 It'll jog my memory. I do know she works at
10 Q	Let's clarify this: What do you believe sexual	10 Metro now. She does not work at the VA, but she
11	harassment is for purposes of discussion?	11 was -- MD was making lip-smacking noises,
12	MS. PIZZINO: Objection. Calls	12 because she was pulling her shirt, this was the
13	for a legal conclusion.	13 charge nurse, to the side to show her breast,
14	MS. BACCHUS: I'm asking her	14 like breast, bra.
15	her belief. You can state your objection and	15 And Lisa Herman was walking through the
16	you have.	16 doors and witnessed this and she said -- she got
17 Q	But please tell me what you think sexual	17 angry and told both MD and I just know what she
18	harassment is.	18 looks like, brown hair, overweight, the charge
19 A	Unwanted conversation, unwanted texting,	19 nurse, that that was inappropriate and she was
20	verbiage, touching.	20 not happy with their -- what she just saw and
21 Q	So we'll use your definition for purposes of	21 she turned around and walked out the door.
22	today.	22 Q But she told them that that was inappropriate?
23	MS. PIZZINO: Well, I think you	23 A Yes.
24	need to give her a chance to finish her answer	24 Q Do you recall what time frame this was?
25	again. I think you cut her off.	25 A It was the second shift. It was around three or

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1	3:30, because that was our time frame that we --	1 make, I assume, verbal statements or comments
2 Q	I mean, date?	2 that you found offensive; correct?
3 A	No.	3 A Correct.
4 Q	Any other instance that you can recall?	4 Q And then there's a point in time where his
5 A	Yes.	5 behavior began to escalate and it also involved
6 Q	Tell me about it please.	6 physical touching; is that correct?
7 A	It was at the nurses's station and there's four	7 A Correct.
8	computers up at the nurses's station and I was	8 Q So when we speak about six month period of time
9	sitting at one and MD was sitting at one. Lisa	9 approximately, is that the point where you found
10	Herman was in one of the seats and he had pulled	10 that he had really crossed the line, because he
11	his chair up to me and was rubbing my legs and	11 was touching you or was that a time period
12	Lisa said she doesn't want to see that again.	12 also --
13 Q	Did he stop rubbing your leg when she told him	13 MS. PIZZINO: Objection.
14	that?	14 MS. BACCHUS: Let me finish.
15 A	Yes.	15 MS. PIZZINO: Okay. Go ahead.
16 Q	Any other instance?	16 Q -- or was that a time period where you just
17 A	With Lisa Herman?	17 thought that it was really horrendous?
18 Q	Yes, Lisa Herman or Dawn Robinson.	18 MS. PIZZINO: Objection to the
19 A	Dawn Robinson's hours usually was until 3:00 or	19 use of the word "crossing the line" and
20	3:30, so I didn't really see her a lot. MD	20 mischaracterizing her previous testimony. If
21	would make a lot of sexual jokes and Lisa would	21 you understand the question, go ahead and
22	not add to the jokes, but she would tell him to	22 answer. And objection also. It's a multiple
23	stop.	23 question.
24 Q	When she told him to stop, did he stop making	24 Q Did you understand my question?
25	the joke?	25 A No, I did not.
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1 A	Yes.	1 Q Then let me ask you this: We've been talking
2 Q	At any of these times when Mr. Garrett would be	2 about a six month period of time, but as we sit
3	either making these jokes and you would be	3 here, all of your statements say five to six
4	present and Lisa would be present, did you ever	4 months, but you're telling me about events that
5	tell him or Lisa Herman at that time that you	5 happened prior to six months. So why did you
6	found it offensive?	6 categorize the harassment as happening for a
7 A	I told him, yes.	7 period of time of five to six months?
8 Q	Was Lisa present when you told him you found	8 A That time frame was where to me, it had
9	this offensive?	9 escalated to the next level of assault to me.
10 A	Yes.	10 Q And when you say "assault to you," are you
11 Q	And she would tell him to stop?	11 talking about physical assault?
12 A	Yes.	12 A Yes.
13 Q	Did you ever follow up with Lisa about the	13 Q In all of this time, whether it be the comments,
14	offensive jokes or comments that he would be	14 the physically touching, any of that, did you
15	making?	15 make any type of notations about this happening
16 A	No.	16 contemporaneous with the incidents?
17 Q	I know you said that this harassment or	17 A Can you clarify that?
18	unwelcomed conduct had spanned for about six	18 Q Sure. During the period of time that you
19	months. When you say "six months," are you	19 believed Mr. Garrett was sexually harassing you,
20	talking about that's the time frame that the	20 did you make any type of notes when these
21	touching started?	21 incidents would happen?
22 A	The touching, yes. More where it was very	22 A No.
23	offensive to me. The jokes were before that	23 Q How did it come about that you learned that Mr.
24	too.	24 Garrett was sexually harassing Roseann McDevitt?
25 Q	So there was a period of time where he would	25 MS. PIZZINO: Objection to the

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1	sexual harassment definition. You can go ahead 2 and answer.	1 come back to this question. 2 I'm sorry, before we go there, I had asked 3 you about any other incidents that occurred with 4 MD Garrett that you considered sexual harassment 5 that occurred in front of Ms. Herman. Were 6 there any other incidents?	
3 A	Inappropriate touching.	7 A What I can recall now is those were the ones 4 Q Okay. that stand out in my mind. Can I come back to 5 A She told me the day before I reported it. 6 Q Tell me how it came about that you were having 7 this discussion with Roseann. 8 A She had approached me, because she noticed that 9 I was teary-eyed and asked if there was 10 something wrong and I told her. I just broke 11 down and told her and she told me that -- she 12 asked if she could share some stuff and that she 13 had been experiencing some of what I was telling 14 her that he was doing the same to her. 15 Q Tell me what you recall that she said MD Garrett 16 was doing to her? 17 A Touching her butt, inappropriate talk, wanting 18 to go out on a date, wanting to go out and go to 19 bed together, following her around, and just not 20 taking no for an answer from her. 21 Q Did she tell you how long this had been going on 22 with her? 23 A Just a while. 24 Q And what did you share with Ms. McDevitt about 25 your experience with Mr. Garrett as to why you	8 Q Sure. If you recall something that you couldn't 9 recall at the time, please just let me know. I 10 understand we're talking about a long period of 11 time. 12 MS. BACCHUS: I'm going to have 13 this marked as Exhibit C please. 14 (Government's Exhibit C was marked for 15 identification.) 16 Q I've handed you what's been marked as 17 Defendant's Exhibit or Government's Exhibit C. 18 This is a police report to the VA. Have you 19 seen this document before? 20 A Yes. 21 Q Okay. According to the Exhibit C, this police 22 report was made on March 27th, 2013, at 23 approximately 3:22 p.m. 24
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1	were teary-eyed? 2 A I broke down and told her everything. 3 Q What do you mean by "everything"? 4 A What I was experiencing as far as the sexual 5 throwing me in the linen closet to forcing 6 himself on me, just everything that I could 7 recall. 8 Q Okay. Let me kind of break that down. Before 9 when I said what caused you to be teary-eyed, 10 that particular day? 11 A He had just pushed me in a patient's room into 12 their bathroom and tried to force himself on me 13 and that had just happened. 14 Q And what day did this occur? 15 A The day before I reported it. 16 Q What date would that have been? 17 A 27th. 18 MS. PIZZINO: If you remember. 19 Q Here's a calendar for March and April of 2013 if 20 you can recall. When you say "reported it," 21 reported it to whom? 22 A The VA Union. 23 Q Okay. Let's clarify some dates, because I don't 24 want your testimony to be incorrect or 25 misconstrued. I'm going to show you -- we'll	1 A Okay. 2 Q Do you dispute that date? 3 A No. 4 Q So this would have been your first report of the 5 sexual harassment you were experiencing from MD 6 Garrett? 7 MS. PIZZINO: Objection as to 8 foundation. This is the date of the police 9 report. I'm not sure -- 10 MS. BACCHUS: You made your 11 objection. 12 MS. PIZZINO: Objection. 13 Foundation. 14 A This was made after the Union advised me to go 15 down and -- me and Roseann to go do this. 16 Q So you met with the Union on the 27th of March? 17 A Yes. 18 Q So when you said that the incident where he 19 pushed into the patient's room happened the day 20 before you made the report, is this the report 21 you were speaking of, March 27th, 2013? 22 A Yes. 23 Q So tell me about the incident where he pushed 24 you into the bathroom of the patient's room. 25 A We were assigned to the hall together and I was	

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1	in the patient's room taking care of this	1 A No, it's McDevitt.
2	patient and I had gone to the bathroom to empty	2 Q It's McDevitt?
3	out his Foley and he came into the room and	3 A Yes.
4	pushed me against the wall.	4 Q Okay. So you were telling Ms. McDevitt about
5 Q	When you say "he," you mean MD Garrett?	5 your experience, because he had pushed you into
6 A	Yes.	6 the bathroom. This is the first date that you
7 Q	He came into the bathroom?	7 recall sharing your experience with Ms.
8 A	Into the bathroom.	8 McDevitt?
9 Q	And where was the patient?	9 A Yes.
10 A	In bed.	10 Q And Ms. McDevitt --
11 Q	And did you scream out or make any comments when	11 A Or Roseann.
12	Mr. Garrett pushed you into the bathroom and	12 Q Yeah, Roseann gave a statement to the Cleveland
13	pushed you up against the wall?	13 police and she claims that you all had talked
14 A	Yes, but the patient couldn't hear that. He was	14 about MD Garrett's behavior as early as March
15	not in that capacity.	15 21st, 2013. Do you recall having any
16 Q	The patient wasn't lucid?	16 conversation with her back then?
17 A	Right.	17 A As far as his behavior, I don't recall that.
18 Q	Do patients have their own room?	18 Q Do you deny having any conversation with Ms.
19 A	Yes.	19 McDevitt about MD touching you or her on March
20 Q	And what shift did Roseann normally work?	20 21st, 2013?
21 A	She worked first and second.	21 A Yes.
22 Q	So she rotated shifts?	22 Q Roseann also said that after you all had talked
23 A	Yes.	23 about Mr. Garrett touching you, that she had
24 Q	And Roseann was at work that particular day.	24 told Laura Anderson. Do you recall telling
25	Was she assigned to your hall?	25 Laura Anderson about anything about Mr. Garrett?
	Page 59	Page 61
1 A	No.	1 A I did not talk to her, no. Roseann did.
2 Q	So when you got away from Mr. Garrett, tell me	2 Q Roseann talked to her. Did you exchange any
3	what happened.	3 text messages with Laura Anderson and Roseann
4 A	I went to the computer in the hallway which was	4 about MD harassing or Roseann?
5	Hallway A and I just was breaking down.	5 A What's the time frame?
6 Q	Do you need a break?	6 Q Around March 21st through March 27th.
7 A	Yeah.	7 A No.
8	MS. BACCHUS: We'll go off the	8 Q Did Laura Anderson accompany you and Roseann to
9	record.	9 the Union's office on March 27th?
10	(A short break was taken.)	10 A Yes, she did.
11	MR. BACCHUS: We're going to go	11 Q Did you exchange any text messages with Roseann
12	back on the record. Before we start, I'm going	12 between March 21st, 2013, and March 27th, 2013,
13	to ask that we substitute page two of Exhibit C.	13 regarding MD Garrett?
14	I didn't realize there was her social security	14 A Specifically, can you rephrase that?
15	number and date of birth in there. So we're	15 Specifically, text messaging, yes, not about MD.
16	just going to take out that page and put a new	16 Q Did you have any text messages with Roseann
17	page in on Exhibit C.	17 regarding going to report these unwanted
18	MS. PIZZINO: Page two?	18 touching to the police or the Union during the
19	MS. BACCHUS: Yes.	19 time period of March 21st, 2013, and March 27th,
20	By Ms. Bacchus:	20 2013?
21 Q	Before we took a break, we were talking about	21 A For herself or for me?
22	you disclosing to Ms. McDevitt -- and let's	22 Q Either of you.
23	clarify this, because the police report calls it	23 A I don't recall that conversation.
24	Devitt with a V. It's with an M; correct, to	24 Q I was asking about text messages.
25	your knowledge?	25 A That's conversation, texting.

	Page 62	Page 64
1 Q	And who was Laura Anderson?	1 grabbing you and forcibly touching you and
2 A	LPN.	2 pushing you into the storage room and a few
3 Q	Does she work on the spinal cord unit?	3 other things; such as taking pictures of you and
4 A	She did.	4 sending it to you on the cell phone?
5 Q	Why did she accompany you and Roseann to the	5 A Correct.
6	Union's office on March 27th, 2013?	6 Q And the cell phone pictures, when were those
7 A	She called me that day and said that she was	7 pictures taken?
8	appalled at what she had heard and she was going	8 A They're actually dated on the phone. I can't
9	to go there with us as support.	9 recall the actual date, but it was dated on the
10 Q	So you go to the Union's office on the 27th,	10 picture itself.
11	March 27th, 2013, and tell me who you met with.	11 Q Do you still have those cell phone pictures on
12 A	Jamila.	12 your cell phone?
13 Q	Jamila Bell?	13 A Yes.
14 A	Yes.	14 Q Can you check those dates and provide it to your
15 Q	Who was Jamila Bell?	15 A counsel and send it to me?
16 A	The Union representative.	16 A Yes.
17 Q	Was anybody else present when you met with	17 MS. PIZZINO: Renee, are you
18	Jamila?	18 asking if she actually has the cell phone with
19 A	Me, Roseann, Laura, and Jamila.	19 the photo on it or the photos from the cell
20 Q	Tell me what happened when you got to the	20 phone?
21	Union's office.	21 MS. BACCHUS: I'm asking her do
22 A	She wanted us to state everything that happened	22 you actually have the cell phone with the photos
23	and we all gave our statement to her and then	23 on it?
24	she wanted us to call Elizabeth Noelker and she	24 A I have my cell phone. It was transferred from
25	called Elizabeth Noelker while we were in the	25 my computer to my new phone, yes.
	Page 63	Page 65
1	office.	1 Q So can you check that date that the pictures
2 Q	And what was the point of calling Elizabeth	2 were texted to you?
3	Noelker?	3 A Yes.
4 A	To let her be aware of what happened and why we	4 Q And you said they were texted to you. How do
5	were in her office and she wanted her to know	5 you know it was MD Garrett who texted it to you?
6	that we had video and pictures and was there a	6 A Because it had his phone number on there and he
7	possible way for us to meet that day.	7 said, "These are pictures I'm sending you." I
8 Q	Did you meet with Elizabeth Noelker on that day,	8 had no idea he took these pictures. It's of me
9	March 27th, 2013?	9 passing medications and he made comments about
10 A	Yes.	10 me being wearing pants that I have a camel toe
11 Q	Did you meet with Ms. Noelker before or after	11 is the word he used.
12	you went to the VA police department?	12 Q You said he made these comments. Did he make
13 A	After.	13 the comments in the text message?
14 Q	Who went with you to the VA police department?	14 A No, it was after he sent them.
15 A	Me and Roseann.	15 Q With the photographs, was there any text
16 Q	And turning back for a minute to Exhibit C,	16 accompanying the photographs?
17	according to the police department --	17 A No.
18	MS. BACCHUS: Go off the	18 Q Had he sent you cell phone photographs prior to
19	record.	19 the two that you produced in discovery?
20	(A discussion was had off the record.)	20 A No.
21	MS. BACCHUS: Back on the	21 Q Did you save any of the text messages that he
22	record.	22 sent you?
23 Q	According to the police report, Exhibit C, when	23 A No.
24	you came to the VA police department, you	24 Q Any reason you didn't save those?
25	reported the incidents of lewd comments and him	25 A They were appalling to me. I don't save any

Page 66	Page 68
1 text messages. 2 Q Did you think it would be necessary to have 3 those text messages as evidence? 4 A No. 5 Q Did you show those text messages to anyone? 6 A No. 7 Q Then you said you had videos? 8 A Yes. 9 Q How many videos did you have? 10 A Two. 11 Q What's depicted on the videos? 12 A Him stating that my nipples were hard and the 13 one that I had sitting on my computer when I was 14 taking notes, he states that he wanted to wrap 15 his legs around me and he actually does. 16 Q Were those videos taken on the same day? 17 A No. 18 Q Do you know what date those videos were taken? 19 A Those were also date-stamped. 20 Q Do you still have those on your phone? 21 A Yes. 22 Q Can you provide the dates for each of those 23 videos to your counsel for us please? 24 A Yes. 25 Q Do you know approximately when the videos were	1 Q The next paragraph says, "Ryan and McDevitt were 2 given statement forms to fill out and return. 3 Ryan has requested a transfer from the ward and 4 stated she does not feel safe anywhere on the 5 Wade Park campus." 6 Is that information that you provided to 7 the interviewing officer? 8 A Yes. 9 Q And when he says you had requested a transfer, 10 who did you request a transfer? 11 A I requested a transfer with the Union at the 12 first initiation. 13 Q Was that a verbal request at that time or had 14 you made that request in writing? 15 A It was verbal and in writing. 16 Q It was in writing as of March 27th, 2013? 17 A Yes. 18 Q Did you give the Union a written request on 19 March 27th, 2013, for a transfer from the unit? 20 A She had me on a yellow legal pad write it and I 21 had also gone onto the computer and typed a 22 statement and she had it in her folder. 23 Q When you say "she," who are you referring to? 24 A Oh, I'm sorry, Jamila. 25 Q Do you have a copy of the written statement or
Page 67	Page 69
1 taken? 2 A I believe in the month of March. 3 Q Do you know approximately when the photographs 4 that he texted you were taken or that you 5 received them? 6 A No, I'd have to look at the phone. 7 Q How did it come about that you ended up 8 videotaping these encounters with MD Garrett? 9 A I knew that I had to do something. That it was 10 something that it was on a day-to-day basis with 11 me and I didn't feel that anybody would believe 12 me. 13 Q So you took the videos for proof? 14 A Yes. 15 Q Exhibit C, the next paragraph says, "On March 16 27th, 2013, at approximately 1440 hours, Ryan 17 went to the Union and talked with Jamal," I 18 think that's supposed to be Jamila, "and Pauline 19 Wells. They told her to go to the police office 20 to file a report and after that to talk with 21 Andrea Freeman." Who's Pauline Wells? 22 A She was the president at the time of the Union. 23 Q So was she present when you were telling Ms. 24 Bell about the alleged sexual assault? 25 A I don't believe so.	1 Q the typed statement? 2 A I do not. 3 (Government's Exhibit D was marked for 4 identification.) 5 Q Ms. Katz, I've handed you what's been marked as 6 Government's Exhibit D. Can you review this 7 document and tell me if you've seen it before. 8 Have you seen this document before? 9 A Yes. 10 Q Is this the voluntary witness statement that was 11 given to you by the VA police? 12 A I believe there was also an AIG officer in there 13 also. 14 Q What I'm asking according to Exhibit C, they 15 said they gave you a voluntary witness statement 16 form to fill out and return. Would Exhibit D be 17 the form that they gave you to fill out and 18 return? 19 A No, the statement is what I said in the office 20 and filled out in their presence. 21 Q Well, I notice that on your witness statement 22 form, it's dated March 28th, 2013. So you 23 believe you completed Exhibit D the following 24 day in the office of the police department? 25 A Yes.

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1	(Government's Exhibit E was marked for identification.)	1 'What are you wearing?'" Does that bring back
2		2 any recollection of him texting you while you
3 Q	I'm handing what's been marked Defendant's	3 were on vacation?
4	Exhibit E. This is entitled "Sworn Statement"	4 A I believe so.
5	and dated March 28th, 2013. Have you seen this	5 Q So does that help you in understanding where you
6	document before?	6 were on vacation when you received these text
7 A	Yes.	7 messages?
8 Q	Do you know which statement was made first,	8 A No.
9	Defendant's Exhibit D or Defendant's Exhibit E?	9 Q And you didn't save that text message; correct?
10 A	I don't recall which one was first.	10 A No.
11 Q	I'm not going to go through all of the	11 Q And then on the very next page, 178, you have
12	allegations that you have written in Exhibit D,	12 "Five to six months," what's that in reference
13	so I'm just going to ask you to the best of your	13 to at the very top left-hand corner?
14	recollection, this was your statement on March	14 A It could have been just -- I have no idea.
15	28th, 2013; correct?	15 Q Then right up under that, it says, "March 23rd,
16 A	Yes, it is.	16 2013, he has touched my breast and butt," were
17 Q	And it is quite lengthy. Were you trying to	17 you referring to March 23rd, 2013, is the date
18	include all of the facts that you could recall	18 that he touched you?
19	as of March 28th, 2013?	19 A No, I believe this might have been the day of
20 A	Yes.	20 the text messages or the pictures.
21 Q	I'm going to direct your attention to page four	21 Q The photographs that he sent to you?
22	of Exhibit D please.	22 A Yes.
23	MS. PIZZINO: Renee, can you	23 Q At the bottom of page of 178, it has two videos
24	reference the Bates number? That might be	24 and two pictures. The two pictures are the text
25	helpful.	25 message pictures?
	Page 71	Page 73
1	MS. BACCHUS: Oh, sur.	1 A Yes. Can I go back --
2	MS. PIZZINO: There's no four	2 Q Sure.
3	on this.	3 A -- about five to six months, I think that that's
4 Q	Let's start at Bates number 176 please, because	4 five to six months of gradual harassment that
5	I think the sentence starts over there and	5 escalated.
6	starting at the fifth line, the sentence that	6 Q And then the two videos that you reference at
7	says, "Just recently I noticed him taking	7 the bottom of 178 are the videos that you gave
8	pictures of me sending them to my phone after	8 to the VA police department?
9	making comments I have a "camel toe" and my	9 A Correct.
10	pants are tight when I was passing my meds. I	10 Q Then next page, page 179, you list as witnesses
11	saved them on my phone." Are those the pictures	11 Roseann?
12	that you have produced?	12 A Uh-huh.
13 A	Yes, they are.	13 Q A Ted H. and Desi H. Who's Ted H.?
14 Q	And then your next statement is "Around January	14 A He was a nursing assistant on the floor.
15	2013 MD came into the computer room where I was	15 Q And you say, "He saw him push me into supply
16	charting and appeared to have a hard penis and	16 closet and how he talks to me," is that what
17	took my hand and pushed it up against him."	17 that says?
18	Were there any witnesses to that particular	18 A Correct.
19	incident?	19 Q And when did you allege that Ted saw MD push you
20 A	No.	20 into the supply closet?
21 Q	And then at the bottom of page 117.	21 A I can't recall a time.
22	MS. PIZZINO: 177.	22 Q Do you recall the incident?
23 Q	Yeah, 177, about seven lines up you state, "He	23 A Of the linen closet?
24	texted me when I was on vacation," I assume that	24 Q Yes, that Ted witnessed.
25	means with my family "this summer and said,	25 A I recall the incident of the linen closet, but I

	Page 74	Page 76
1	don't recall the actual date.	1 got out of there.
2 Q	But when you say you recall the incident of the 3 linen closet, are you being general or are you 4 being specific to the incident that Ted 5 witnessed?	2 Q Did he tell you he saw MD push you into the 3 closet? 4 A No. 5 Q What other discussion did you have with Mr. Hale 6 about this incident? 7 A That I was upset of his constant touching and 8 pushing himself on me. That's all that I can 9 remember. 10 Q What was Mr. Hale's response? 11 A That MD does that to many women and if I'm 12 bothered by that, I should say something. 13 Q Did you say something? 14 A It was after a couple of weeks when I did, yes. 15 Q So you believe that this incident that Mr. Hale 16 witnessed was when? 17 A I don't know. 18 Q But you believe a couple of weeks after this 19 incident that Mr. Hale witnessed you reported 20 MD's behavior? 21 A Yes. 22 Q And who did you report it to at that time? 23 A The Union. 24 Q Was the incident that Mr. Hale witnessed before 25 or after the incident that Ted witnessed?
	Page 75	Page 77
1 Q	What did you say to Ted?	1 A It's the only incident of the linen closet, yes, 2 of that. I don't know what you mean.
2 A	"Did you see him push me into the closet?"	3 Q Let me start and let's try it again. The 4 incident of the linen closet that you said Ted 5 and Desi witnessed, was that one incident or 6 were there two separate incidents? 7 A No, one incident. 8 Q Had you walked into the closet or he pushed you 9 into the closet? 10 A I was walking towards the closet, because I 11 needed to get supplies. He then shoved me in 12 there and pushed the door with his foot. 13 Q Then on the next page, page 180 Bates-stamped, 14 Exhibit D, you have a date up here, March 23rd, 15 Friday, 2013 and this is an incident that 16 occurred in a patient's room apparently? 17 A Uh-huh. 18 Q You have to say yes for the court reporter. 19 A Yes, yes. 20 Q And is this the incident that you were telling 21 me about that you told Roseann about? 22 A No. 23 Q So this is a separate incident? 24 A Correct. 25 Q And you say, "The patient's curtain was closed"

	Page 78	Page 80
1	and was this patient lucid?	1 D, at the top, it states, "March 26th, 2013,
2 A	Yes.	2 contacted Bob Highar, (my dad's old law firm
3 Q	Did you say anything to the patient and ask them	3 partner) who advised me to tell either Human
4	if they heard anything?	4 Resources or the Union since I don't feel
5 A	No.	5 comfortable telling Lisa (nurse manager) or Dawn
6 Q	And further down on that page, you describe the	6 (assist. nurse manager.) He also advised me
7	incident about a camel toe. Was this the same	7 that this is more than sexual harassment. This
8	incident that we previously talked about?	8 is sexual assault."
9 A	Correct.	9 Do you recall contacting Mr. Highar?
10 Q	At page 181 you talk about an incident where he	10 A Yes.
11	would leave the unit at break and go park his	11 Q How did it come about that you contacted Mr.
12	car next to yours. Did you always walk to your	12 Highar on the 26th of March?
13	car with Mr. Garrett?	13 A Because he's a personal friend. He was my dad's
14 A	We walked as a team. All of us walked, because	14 partner. I talk to him on a lot of things. I
15	we left the building late at night, so we all	15 wanted his advice.
16	walked as a group.	16 Q On March 26th did something happen to make you
17 Q	When you would walk to your car as a group, did	17 call Mr. Highar?
18	you ever ask the other people to wait until you	18 A This was around the time that everything was
19	got in your car before they left?	19 escalating.
20 A	No.	20 Q I mean, was there a specific incident on March
21 Q	Did you ever ask for a police escort as opposed	21 26th that prompted you to call him?
22	to walking out with Mr. Garrett?	22 A Not that I recall.
23 A	No.	23 Q At the bottom of page 186, it says, "At work in
24 Q	Did any of these people who walked out to their	24 evening," were you referring to March 26th or
25	cars with you ever observe him grabbing you or	25 were you just relating something else that had
	Page 79	Page 81
1	trying to kiss you in the parking garage?	1 happened?
2 A	I don't know that.	2 A Where are you?
3 Q	Page 182, you say he takes pictures of you	3 Q Bottom of Bates-stamp page 186.
4	constantly. Are you aware of any other	4 A I can't recall the date, the actual date.
5	photographs besides the two that you have given	5 Q Then page 187 Bates-stamp at the bottom. At the
6	us?	6 top, it says, "My attorney advised me to ask for
7 A	No.	7 a transfer off Wade Park main campus since I
8 Q	Page 183 at the top, you say "MD constantly	8 feel unsafe there and requested an off campus
9	pushes me into the supply closet." How often	9 facility. He also advised me to get a
10	was that occurring?	10 restraining order and this is criminal. He said
11 A	A lot.	11 if this doesn't happen, then I have grounds for
12 Q	When you say "a lot," give me a quantity	12 a lawsuit for not protecting me. My attorney
13	estimate.	13 thinks I am in danger from MD especially now
14 A	We have a supply closet/linen closet where we	14 that I have told of what has been happening to
15	keep our beds, extra beds, extras, so I can't	15 me. I am filing a restraining order against him
16	recall. I just can say numerous times.	16 in Cleveland and in my hometown of Tallmadge."
17 Q	But you're uncertain what numerous means in	17 Did you file for a restraining order?
18	terms of quantity?	18 A Yes, I did.
19 A	Many.	19 Q Did you receive a restraining order?
20 Q	So then you say, "I know of two occasions Desi,	20 A I did.
21	the housekeeper, has seen this." What two	21 Q Do you have a copy of that restraining order?
22	occasions are you speaking of? You just told me	22 A I know my attorney did at the time. I don't
23	about one. Is there a second occasion?	23 have it. I would have to look for it.
24 A	I only know of the one that comes to mind.	24 Q Can you see if you have that and produce it to
25 Q	Directing your attention to page 186 of Exhibit	25 your counsel please. Did you get a restraining

	Page 82	Page 84
1	order from Cleveland?	1 MS. PIZZINO: Objection. To
2 A	Yes.	2 the extent that it calls for attorney-client
3 Q	And what Court issued that restraining order?	3 privilege.
4 A	Cuyahoga County.	4 MS. BACCHUS: She hasn't told
5 Q	When did you receive the restraining order from	5 me that she gave it to her attorney yet.
6	Cuyahoga County?	6 MS. PIZZINO: Oh, okay, but are
7 A	I don't know the date.	7 you talking about this documentation here?
8 Q	Was it around the time that you reported the	8 MS. BACCHUS: No, she says,
9	sexual harassment in March 27th, 2013?	9 "For about six months until I started
10 A	I believe it would have been after that.	10 documenting."
11 Q	Was that restraining order issued by the same	11 Q And I want to know what you started
12	judge that presided over Mr. Garrett's criminal	12 documenting?
13	case?	13 A I documented after so that I would know what was
14 A	I don't know that answer.	14 going to be happening when I filed what if
15 Q	And the restraining order that you said you	15 that's what you're referring to?
16	received in Tallmadge, did you go to Court for	16 Q And were you keeping a journal or was this on a
17	that restraining order?	17 calendar?
18	MS. PIZZINO: Objection. I	18 A On a journal.
19	don't think she stated she got one in Tallmadge.	19 Q Do you still have that journal?
20	She stated she got one in Cleveland.	20 A Yes.
21	THE WITNESS: Yeah.	21 Q I'd ask that you produce a copy of the journal.
22 Q	At the bottom of the page, it says, "Order	22 MS. PIZZINO: To the extent
23	against him in Cleveland and in my hometown in	23 that it is not attorney-client privilege or work
24	Tallmadge."	24 product privilege, we'll produce that.
25	MS. PIZZINO: But it says, "I	25 Q Why were you keeping this documentation?
	Page 83	Page 85
1	am filing a restraining order," but she	1 A My attorney's request.
2	testified she got one in Cleveland. Well, I	2 Q And were you making this documentation to
3	guess she can clarify it.	3 document incidents that happened with MD Garrett
4 Q	Did you receive a restraining order?	4 and your interactions with the VA?
5 A	Did not, because they stated that I had to go	5 A This was after the fact. This was going to
6	where the incident happened.	6 court, my proceedings, how I felt, not -- this
7 Q	Did you have to appear in court to receive that	7 was after the fact.
8	restraining order?	8 Q In that documentation, were you documenting
9 A	I don't believe so.	9 phone calls or any conversations or transactions
10 Q	You don't think so?	10 with members of the VA?
11 A	I can't recall that.	11 MS. PIZZINO: Objection, again,
12 Q	Did you provide a copy of the restraining order	12 to the extent that calls for attorney-client
13	to the VA?	13 privileged information. So to the extent that
14 A	This was after, so I am unsure of that.	14 she's going to divulge anything that is work
15	Everything was through my attorney.	15 product or attorney-client privilege, I'm
16 Q	When you say through your attorney, what	16 directing her not to answer.
17	attorney?	17 MS. BACCHUS: Well, she can't
18 A	I believe I was with Pam Kurt at that time.	18 have work product with an attorney. It's your
19 Q	Okay. I'm going to direct your attention to 189	19 work product, not her work product.
20	of Exhibit D. The very top, it says, "For about	20 MS. PIZZINO: If the attorney
21	six months until I started documenting." Did	21 directs her to prepare something that is work
22	you create some documentation regarding the	22 product privileged and also attorney-client
23	incidents with MD Garrett?	23 privileged and I didn't direct her.
24 A	Yes.	24 MS. BACCHUS: So then you don't
25 Q	And do you have that documentation?	25 know what she was directed, so we're arguing

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1	about nothing at this point.	1 MD was also friends with my immediate supervisor
2	MS. PIZZINO: So I said to the	2 and many other employees on the floor and at the
3	extent that it is protected.	3 Cleveland VA Medical Center. I was also afraid
4 Q	Can you produce that to your attorney please?	4 to report him because he was a vet. I was also
5 A	Yes.	5 afraid I might lose my job."
6 Q	I'm going to direct your attention to Exhibit D,	6 Why did you believe you were going to lose
7	the last page, page 191. It states, "Because of	7 your job if you reported him?
8	this, I am suffering from depression and I am on	8 A Because I've seen a lot within the VA and I
9	Wellbutrin. I have an appointment with a	9 didn't want to -- I just wanted to go to work,
10	counselor due to this sexual harassment. I	10 do my job, come home.
11	can't eat or sleep and I have lost in the last	11 Q Had you seen anybody lose their job at the VA
12	couple of months 25 pounds."	12 for reporting sexual harassment?
13	Are those your statements?	13 A I've seen people lose their jobs for reporting
14 A	Yes.	14 other incidents.
15 Q	And you were on medication for depression prior	15 Q So my question is: Had you seen anyone lose
16	to March 27th, 2013; correct?	16 their job for reporting sexual harassment or
17 A	Can you be specific?	17 unwelcomed touching or comments or anything like
18 Q	Sure. You were on medication for depression	18 that?
19	prior to March 27th, 2013?	19 A No.
20	MS. PIZZINO: Objection.	20 Q So after you went to the VA police department on
21	Overbroad. Is there a time frame you're asking	21 the 27th, you stated that you met with Beth
22	about?	22 Noelker. Who was present when you met with
23 Q	Were you ever on medication for depression prior	23 Beth?
24	to March 27th, 2013?	24 A Just me and Beth. And then she then brought
25 A	Yes.	25 Lisa Herman into her office.
	Page 87	Page 89
1 Q	Let's look at Defendant's Exhibit E please.	1 Q And this was on the 27th of March 2013?
2	This is entitled "Sworn Statement" and is dated	2 A Yes.
3	March 28th, 2013, and it appears to be a	3 Q What do you recall about that meeting?
4	statement that you made to Jeff Maslar who is a	4 A She wanted to see the videos and she wanted to
5	Special Agent with the Office of the Inspector	5 see the text, the pictures, and I gave them to
6	General, Department of Veterans Affairs,	6 her. She has copies of them. And what can they
7	Criminal Investigations Unit.	7 do for me? How could they help?
8	Do you recall making this statement?	8 Q And what did you respond to that question?
9 A	Yes, I do.	9 A I told her that I wanted to be transferred off
10 Q	And you authorized Special Agent Maslar to write	10 of that facility and was there any openings on
11	the statement for you?	11 any other facilities and I needed to have some
12 A	Yes.	12 time off to heal with what I just went through.
13 Q	And did you read this statement after it was	13 Q Did you tell her how much time you needed off?
14	written?	14 A I said I needed to go to my doctor and I would
15 A	Yes.	15 get back with her and she advised me to fill out
16 Q	And did you agree with what was included in the	16 some FMLA papers.
17	statement?	17 Q When you asked about a transfer, what was Beth's
18 A	Yes.	18 response?
19 Q	You signed the statement on each page?	19 A She told me that there was positions, but she'd
20 A	Yes.	20 have to look into it and she would get back with
21 Q	I'm going to direct your attention to the second	21 me.
22	page of the statement. It's Bates-stamped page	22 Q Anything else that the three of you discussed on
23	685 about five lines up. It starts with, "I was	23 March 27th, 2013?
24	afraid to report MD, because I was relatively	24 MS. PIZZINO: Objection to the
25	new and he had been working here for a while.	25 characterization that the three spoke. That's

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1	just a foundation question. She testified --	1 hours. Does that comport with your
2	MS. BACCHUS: All right. We'll	2 recollection?
3	back it up.	3 A Yes.
4 Q	You said you spoke with Beth.	4 Q This police report was entered for an offense of
5	MS. PIZZINO: That's also a	5 gross sexual imposition and telephone
6	mischaracterization.	6 harassment. Besides for texting you photographs
7	MS. BACCHUS: We're going to	7 on your cell phone, was there any other type of
8	clarify this.	8 harassment?
9 Q	You said you spoke with Beth and she brought in	9 MS. PIZZINO: Objection. Calls
10	Lisa Herman. At what point did she bring in	10 for a legal conclusion.
11	Lisa Herman into the meeting?	11 Q You can answer.
12 A	After I showed her the pictures and after I	12 MS. PIZZINO: Again, it was
13	showed her the video.	13 already asked and answered.
14 Q	And was Lisa Herman present when you told Beth	14 A Can you rephrase that?
15	that you needed some time off?	15 Q The report was made for telephone harassment.
16 A	Yes.	16 Did you describe any other type of telephone
17 Q	Was Lisa Herman present at the time that you	17 harassment besides receiving the text for
18	told Beth that you wanted a transfer?	18 photographs from MD Garrett?
19 A	Yes.	19 A No.
20 Q	And is there anything else that was said between	20 Q After you made the report at Cleveland police
21	you and Beth -- you, Beth, and Lisa Herman	21 department on March 28th, 2013, did you go to
22	during that meeting on March 27th?	22 the VA?
23 A	Not that I can recall.	23 A As far as -- can you rephrase that?
24 Q	So on March 27th, were you scheduled to work	24 Q Did you go to the VA -- physically go up to the
25	that day?	25 VA on March 28th, 2013?
	Page 91	Page 93
1 A	I have no idea.	1 A Yes.
2 Q	Would your time sheet records indicate if you	2 Q So tell me what happened when you went to the VA
3	were scheduled to work?	3 on the 28th.
4 A	I can't speak on that. I don't know.	4 A I guess, I don't understand what you're saying.
5 Q	So March 28th, you apparently went to Cleveland	5 As far as working there or as far as -- I don't
6	police department; do you recall that?	6 know what you mean.
7 A	Yes.	7 Q On the 28th after you made your report at the
8	(Government's Exhibit F was marked for	8 Cleveland police department, you went to the VA.
9	identification.)	9 What was your purpose of going to the VA?
10 Q	I'm going to hand you what's been marked	10 A I've been back to the VA, but for what, I can't
11	Defendant's Exhibit F. This is the officer's	11 recollect.
12	incident report from the Cleveland police	12 Q Do you deny meeting with Beth on March 28th,
13	department. Have you seen this before?	13 2013?
14 A	Yes.	14 A I could have. I met with her a couple of times.
15 Q	How did it come about that you ended up going to	15 I don't know.
16	Cleveland police department to make a police	16 Q Do you recall meeting with Beth and your Union
17	report?	17 representative, Jamila Bell?
18 A	I didn't feel comfortable that the VA was going	18 A The two of them together?
19	to do anything about it, so I went to the police	19 Q Uh-huh.
20	department.	20 A Separately, yes. Together no.
21 Q	And did anybody accompany you to the Cleveland	21 Q So you don't recall stating that Jamila went
22	police report?	22 with you to meet with Beth Noelker?
23 A	No.	23 A She could have. I can't recall that far back.
24 Q	According to the police report, you went to the	24 Q We've gone over the incidents that you have
25	police department on March 28th, 2013, at 1246	25 alleged that Mr. Garrett took and when I say the

	Page 94	Page 96
1	sexual harassment as you defined it, we've	1 A After I reported it.
2	talked about the text messages; correct?	2 Q After you reported it to whom?
3 A	Correct.	3 A The Union and the police.
4 Q	And we've talked about some of the comments that	4 Q Okay. How did the subject matter come up with
5	he's made to you; correct?	5 John Blackstone at that time?
6 A	Correct.	6 A I believe he wanted to know when I was returning
7 Q	And we talked about him pushing you into the	7 back to work and if I was okay.
8	linen closet; correct?	8 Q Okay. Did he call you or did you call him? Did
9 A	Correct.	9 you see him in person?
10 Q	And the incidents where he tried to kiss you in	10 A He called me.
11	the parking garage; correct?	11 Q Do you recall anything else about that
12 A	Correct.	12 conversation with John Blackstone?
13 Q	And the incidents in the patient's room?	13 A I don't recall.
14 A	Yes.	14 Q Are you aware that Mr. Blackstone is deceased?
15 Q	And then we talked about the incident where he	15 A Yes, I am.
16	rubbed your leg; correct?	16 Q Prior to him passing away, did you have any
17 A	Yes.	17 other conversations with Mr. Blackstone about MD
18 Q	Are there any other incidents that we have not	18 Garrett and the unwelcomed conduct during your
19	talked about?	19 time with the VA?
20 A	In these reports, there's a lot of incidents.	20 A Yes.
21	It was ongoing for five or six months, so those	21 Q What other conversations did you have with him
22	specific, there was -- it's in the report.	22 after you reported it to VA police?
23	There's a lot more, but being specific? I don't	23 A Can you be more specific?
24	know what you're -- I guess, I don't know what	24 Q Sure. You said that you had conversations with
25	you're asking.	25 Mr. Blackstone about MD Garrett. I want to know
	Page 95	Page 97
1 Q	Let's try this: Were there any other type of	1 what conversations besides the one you just told
2	incidents that happened with Mr. Garrett besides	2 me about him calling you at home to make sure
3	for him trying to kiss you at the parking	3 you were okay?
4	garage, pushing you into the patient's	4 A He wanted to know if there was anything he could
5	bathrooms, him rubbing your leg, making lewd	5 do to help me and he would state to whoever he
6	comments to you?	6 needed to state, because he witnessed on
7	MS. PIZZINO: Objection. Asked	7 occasion.
8	and answered.	8 Q He witnessed what on occasion?
9	MS. BACCHUS: She never	9 A The lewd comments, the touching of the buttocks,
10	answered the question.	10 and that he would help me out.
11 Q	So were there any other type of incidents that	11 Q Any other conversations you had with Mr.
12	you can recall?	12 Blackstone following your disclosure to the VA
13 A	He grabbed my hand and pushed it towards his	13 police department?
14	penis area, yes.	14 A As far as that?
15 Q	Anything else?	15 Q Yes.
16	MS. PIZZINO: Objection.	16 A No.
17	Again, asked and answered.	17 Q Your answers to Interrogatories also said that
18 A	No.	18 you told Andrea Swails. When did you have a
19 Q	Anything else that you can recall as you sit	19 conversation with Andrea Swails about Mr.
20	here?	20 Garrett rubbing your back and your leg?
21 A	No.	21 A Again, it was after I reported.
22 Q	Your responses to Interrogatories state that you	22 Q How did the conversation with Ms. Swails come
23	reported to John Blackstone that Garrett was	23 about?
24	rubbing your back and your leg. When did you	24 A She called me on the phone and it was not a
25	make this report to John Blackstone?	25 pleasant conversation and she was a friend of

		Page 98	Page 100
1	MD, so she was upset that I made the accusations		Because she was in the room.
2	against him.		2 Q Okay. Did you have a discussion with her about
3 Q	What exactly did Ms. Swails say to you?		3 seeing this?
4 A	I can't recall the exact. That it was a		4 A No.
5	negative conversation.		5 Q So you don't know if she saw it. You assume she
6 Q	Did Ms. Swails make any threats against you?		6 saw it?
7 A	Can you be more specific on the threats?		7 A She was laughing so she's -- we didn't have a
8 Q	Did she threaten you? Whatever you felt, did		8 discussion about it, but she's laughing at him
9	she say she was going to harm you? Did she say		9 touching my bottom. Yes, she saw it.
10	she was going to take any type of --		10 Q In your answers in your Interrogatories, you
11 A	No.		11 said she saw him rubbing your back and your
12 Q	Did she say she was going to try to discipline		12 legs. You didn't say anything about your
13	you, anything like that?		13 bottom. So tell me about this incident where he
14 A	No.		14 was supposedly touching your bottom that she
15 Q	When do you recall having this conversation with		15 witnessed.
16	Ms. Swails?		16 A He's always touched my bottom and my legs. It
17 A	After I reported it.		17 was an ongoing thing for five to six months. So
18 Q	Was it a week after, a month after, a year		18 to be specific, I can't be specific to a certain
19	after?		19 day. It was all the time.
20 A	I don't know. I can't recall.		20 Q So you assume, because this was happening all
21 Q	Did you make any documentations of this phone		21 the time, that Ms. Swails saw it?
22	call with Ms. Swails?		22 MS. PIZZINO: Objection. Asked
23 A	No.		23 and answered.
24 Q	Your responses to Interrogatories also claims		24 A I'm not assuming it. She laughed at the
25	that Ms. Swails saw Garrett rubbing your back		25 incident.
		Page 99	Page 101
1	and your leg back in the fall of 2012.		1 Q So she laughed at the incident. Tell me
2 A	Yes.		2 specifically about the incident that she laughed
3 Q	Tell me about that incident.		3 at.
4 A	Can you be more specific?		4 A He touched my bottom like a hit and she laughed.
5 Q	I just want to know what happened that day and		5 Q Okay. So he swatted you on the bottom and she
6	how do you know she saw it and did you talk to		6 laughed?
7	her about it?		7 A Yes.
8 A	He did that to a lot of people, not just me,		8 Q And when he swatted you on the bottom, did you
9	including her. So she seen it and has witnessed		9 say, "Don't touch me. Stop it. It's
10	his actions of how he treats women as far as		10 harassment," anything?
11	touching their bottom and his sexual talks, but		11 A I didn't use the word "harassment." I said
12	I can't say a specific date.		12 stop.
13 Q	So you can't specifically say that she saw him		13 Q Was there any other incident that you claim she
14	rubbing your back and your leg at some time in		14 saw him touching you?
15	the fall of 2012?		15 A Not that I can recall.
16 A	I know she saw this, yes, but I don't know the		16 Q After you told him to stop, did he stop on that
17	exact date.		17 particular incident or did he continue to swat
18 Q	How do you know she saw it?		18 your bottom that day?
19 A	He was open about touching the women's bottoms.		19 A He continued.
20	During lunchtime, again, she was at the table.		20 Q That day in front of Ms. Swails?
21	There was always the lewd comments when he's in		21 A I can't say if it was in front of her, but he
22	there, so she overtook in a lot of that.		22 continued.
23 Q	My question, and perhaps, you didn't understand		23 Q I believe in your responses to Interrogatories,
24	my question, how do you know she saw him rubbing		24 you stated that he said he wouldn't help you
25	your back and your leg?		25 unless you went out with him?

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1	A Correct.	1 Q So why do you believe that the management at the
2	Q When he would make these kind of comments, would	2 VA knew or should have known that Mr. Garrett
3	he refuse to help you?	3 was sexually harassing you?
4	A Yes.	4 A Because they saw it, Lisa saw it, the nurses in
5	Q Did you report him not doing his job to anyone?	5 charge saw it.
6	A No.	6 Q When you say "saw it," you're talking about the
7	Q So when he would refuse to help you, would you	7 incidents that you have described today?
8	get somebody else to help you?	8 A Yes.
9	A No.	9 Q Any other reasons?
10	Q You'd just do it yourself?	10 A Can you clarify more?
11	A Correct.	11 Q I'm just asking you is there any other reason
12	Q You also stated that in staff meetings, he would	12 that you believe that they knew or should have
13	be rubbing the back of another employee in the	13 known he was sexually harassing you?
14	presence of a supervisor. Tell me about in the	14 A For witnessing it and seeing it, yes.
15	staff meetings was he rubbing your back or the	15 Q Why did you wait until March 27th, 2013, to go
16	back of another employee?	16 to the police department and report MD Garrett?
17	A Another employee.	17 A I didn't want to lose my job. I was fearful. I
18	Q When did you have these staff meetings, were	18 was a single mother. I'm trying to support my
19	they monthly, weekly?	19 family.
20	A They were weekly.	20 Q Any other reason?
21	Q Would it be all shifts at the staff meeting?	21 A I didn't want to lose my job.
22	A No.	22 Q And is there any reason you didn't report the
23	Q Who would be present at the staff meeting; would	23 harassment to Lisa Herman prior to March 27th,
24	it be just like second shift and the supervisor?	24 2013?
25	A Correct.	25 A Yes.
	Page 103	Page 105
1	Q When you say the supervisor, that would be Lisa	1 Q Why?
2	Herman and Dawn Robinson?	2 A Because I felt that she was friends with him.
3	A Dawn usually wasn't at those. It would be Lisa	3 Q Any other reason?
4	sometimes. Always the nurse in charge.	4 A They knew each other for the whole time since
5	Q And when he would be rubbing other employees'	5 they've worked together and they were friendly
6	backs, were the employees complaining about him	6 towards each other.
7	touching them?	7 Q Any other reason?
8	A No.	8 A No.
9	Q Did, to the best of your knowledge, Lisa Herman	9 Q Any reason you didn't report it to Dawn
10	ever witness him rubbing the back of other	10 Robinson?
11	employees?	11 A I didn't work with Dawn. She was not my
12	A Yes.	12 manager. I didn't know her.
13	Q And what did she say, if anything?	13 Q Is there any reason you didn't report it to Beth
14	A Stop the behavior.	14 Noelker before March 27th, 2013?
15	Q Did he stop?	15 A I didn't know her and I went to the Union.
16	A For the time.	16 That's where I felt comfortable.
17	Q Did he ever rub your back in these staff	17 Q Is there any reason you didn't go to the Union
18	meetings?	18 before March 27th, 2013, besides the fact you
19	A Yes.	19 didn't want to lose your job?
20	Q Did you tell him to stop?	20 A That was the main reason, yes.
21	A Yes.	21 (Government's Exhibit G was marked for
22	Q Was Lisa Herman present?	22 identification.)
23	A Yes.	23 Q Ms. Ryan, we've been talking about photographs
24	Q And when you'd tell him to stop, did he stop?	24 that Mr. Garrett texted to you. I've handed you
25	A For the time.	25 Exhibit G. Are these the photographs that you

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1	were speaking of?	1 Q I apologize.
2 A	Yes.	2 A No, that was the one who I described that was
3 Q	And is this the complete photograph as you	3 sitting there that I couldn't recall her name.
4	received it?	4 That was her name.
5 A	Yes.	5 Q Jessica Love?
6 Q	I believe in your responses to Interrogatories	6 A No, Jennifer Stiles. She was the RN nurse in
7	you stated that Garrett has sexually harassed	7 charge, the one who showed her bra.
8	Jessica Love? Who's Jessica Love?	8 Q All right. So Jennifer Stiles, what do you
9 A	I don't believe I used that.	9 recall about Jennifer Stiles being harassed on
10	MS. PIZZINO: Renee, at some	10 the basis of gender or sex?
11	point in time, it's about ten after 12, can we	11 A For me, he was doing the lip smacking and she
12	break for lunch soon?	12 was the one that was at the table and he was
13	MS. BACCHUS: Well, we can	13 over here, but she's the one that showed her
14	break for lunch after we finish this question.	14 breast during that meeting.
15	I was hoping that we would be able to finish her	15 Q So you're saying that the act of her showing her
16	deposition today, so I'm hoping we're not going	16 breast was sexual harassment or are you she was
17	to need a whole bunch of time for lunch.	17 actually sexually harassed?
18	MS. PIZZINO: No, just to grab	18 A I don't --
19	a little something. You have a place on the	19 MS. PIZZINO: Objection. Calls
20	seventh floor, so it would be quick.	20 for speculation. Answer what you can. It's
21	MS. BACCHUS: That's fine.	21 your knowledge.
22	Let's finish this one.	22 A Okay. My knowledge, that was offensive to me
23 Q	The question for Interrogatory Number One	23 just during the meeting to see that go on
24	states, "In paragraph 38 of the amended	24 between a nurse in charge and an employee.
25	complaint, Plaintiff alleges that VA unlawfully	25 Q Okay.
	Page 107	Page 109
1	maintained or permitted sexual and gender	1 A To see the breast and the lip smacking.
2	harassment in the workplace. These working	2 Q So you're not alleging that Ms. Stiles believes
3	conditions created by the VA was intolerable and	3 she was being harassed?
4	such that a reasonable person in Ms. Ryan's	4 A Correct.
5	circumstances would have resigned because of the	5 Q And you also list Princess Jefferson?
6	-- after complaints and requests were ignored."	6 A Yes.
7	It asks to, "Identify all acts and dates	7 Q Are you saying that the acts that were directed
8	thereof and persons involved who you allege was	8 towards her was harassment?
9	harassed on the basis of sex or gender at the	9 MS. PIZZINO: Objection. Calls
10	VA, the name of the management official who	10 for a legal conclusion and you're restating
11	first became aware of it," over the objection,	11 testimony that she provided. I think it's
12	there was a objection made, with a pretty	12 appropriate if you provide that to her so she
13	lengthy response, but then you list "Jessica	13 can look at it.
14	Love."	14 MS. BACCHUS: I'm sorry, this
15	And you say, "She was sexually harassed by	15 is her testimony. I'm asking what she recalls.
16	another employee on our floor." I'm sorry, I	16 She obviously recalled it. She wrote it in her
17	apologize, you did someone else.	17 answers to Interrogatories.
18 A	Yes.	18 Q So what do you recall about Princess?
19 Q	"Jessica Love, she was sexually harassed by	19 MS. PIZZINO: Objection. Calls
20	another employee on our floor." Is that the	20 for a legal conclusion.
21	incident we talked about already?	21 Q What do you recall about Princess Jefferson?
22 A	Yes.	22 A Princess is --
23 Q	And then you say Jennifer Stiles, " who was	23 MS. PIZZINO: Objection.
24	Jennifer Stiles?	24 Q You can answer.
25 A	Thank you.	25 A She enjoyed the advances. I was the one who was

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1	not liking it. I had to sit, witness it, and 2 see it.	1 Q When did Mr. Jenison call you and tell you 2 Princess was bad-mouthing you?
3 Q	And you also list Angela Sims. Do you recall 4 witnessing any incidents involving Angela Sims?	3 A The week after he had to -- he called me at home 4 to let me know that he crossed my number and 5 address off in the employee folder that was on 6 the nurses' station because Princess was calling 7 me at home.
5 A	No, that's not -- she was also a nurse manager 6 on third shift and she new about MD's past 7 sexual innuendos, whatever he does, tapping on 8 people's butts that she's witnessed, because she 9 worked with him for many years.	8 Q He told you Princess was calling you at home?
10 Q	Did you ever have any conversations with Ms. 11 Sims about MD's behavior?	9 A No, I knew she was. She had called me at home 10 on numerous occasions.
12 A	I didn't, no.	11 Q Did you take any of her phone calls?
13	MS. BACCHUS: You want to take 14 a break at 12:30?	12 A Only one.
15	MS. PIZZINO: That's fine. I 16 just want to make sure we were able to take a 17 break at some point if this is going to go for 18 more than another hour it looks like. You're 19 the only one that can gauge that so.	13 Q Tell me about that phone call.
20	MS. BACCHUS: We can take a 21 break at 12:30.	14 A She just threatened me and said that she would 15 -- you know, how I interpreted it is that she 16 was going to -- if I went further with any of 17 the charges with MD, that she would come to my 18 house and beat me up.
22 Q	So after you made the report of harassment to 23 the VA police department and met with Beth, did 24 you ever return to work on the spinal cord unit?	19 And I did not take the next call that she 20 called. I blocked her from my phone.
25 A	No, I didn't.	21 Q So just this one call where she called and 22 threatened to beat you up?
	Page 111	Page 113
1 Q	You tell me that you had spoken with John 2 Blackstone after you made the report and that 3 you'd also spoken with Andrea Swails. Did 4 anybody else contact you from the spinal cord 5 unit?	1 Q Who did you report it to?
6 A	Yes.	2 A Beth Noelker, Lisa Herman, my attorney, Doug, 3 and John.
7 Q	Who?	4 Q In your video police statement, you say that the 5 employee -- I'm sorry, let me go back. After 6 you made your report at the Cleveland police 7 department, you then went and made a statement 8 to Detective Evans; correct?
8 A	Doug Jenison, who's also deceased.	9 A Yes.
9 Q	Do you recall when Doug Jenison contacted you?	10 Q Were you aware that that statement was being 11 videotaped?
10 A	Right soon after that week of my reporting.	12 A Yes, she asked me.
11 Q	And what was discussed with Mr. Jenison?	13 Q And according to the videotape, that statement 14 occurred on April 3rd, 2013. Do you have any 15 reason to dispute that date?
12 A	Doug was my friend, so I stayed in constant 13 contact with him. And he wanted to know what he 14 could do as far as helping me out. He would go 15 to Lisa for me, whatever I needed, more for 16 support.	16 A No.
17 Q	Anything else?	17 Q So April 3rd, 2013, you told Detective Evans 18 that you received a threat that they were going 19 to come and beat the shit out of you; is that 20 the call that -- Princess's threat?
18 A	Just being my friend.	21 A Yes.
19 Q	And I believe you have stated that someone 20 called you and told you Princess was 21 bad-mouthing you at work?	22 Q Did you receive any other threat from anyone 23 else at the spinal cord unit after March 28th, 24 2013?
22 A	Yes, that was Doug.	25 A Yes.
23 Q	So was this in the same conversation or did you 24 have a number of conversations?	
25 A	A number of conversations.	

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1 Q	Who else threatened you?	1 A Uh-huh.
2 A	Her name was Willa and she was an older nurse and friends with MD.	2 Q Say yes for the court reporter.
3		3 A Yes.
4 Q	Okay. When did Willa threaten you?	4 Q So she would say things like, "You need to stay with your own race"?
5 A	Right soon after Princess.	5
6 Q	So was this before you met with Detective Evans?	6 A Correct.
7 A	I can't recall.	7 Q Princess, I presume, is African-American?
8 Q	Do you believe it was in the first week of reporting the harassment to the police department?	8 A Correct.
9		9 Q For the record you're white?
10 A	It was that month. I don't know about the week.	10 A Correct.
11 Q	What else did Willa say to you?	11 Q Did she make any other statements to you?
12 A	I hung up on her, so I didn't give her much time to talk.	12 A Not to me.
13 Q	What do you recall about Willa's threat?	13 Q Did you ever file a complaint with EEO about Princess's discrimination on the basis of race prior to March 27th, 2013?
14 A	Just to stop. That it was common for him to be like that. He didn't mean no harm.	14
15 Q	Did she threaten you with physical violence?	15 A No.
16 A	Just to stop. That it was common for him to be like that. He didn't mean no harm.	17 Q Princess was a nurse's aide or LPN?
17 Q	No, I hung up on her.	18 A No, she's an RN now.
18 A	So during the conversation that you did have with her, there was no threat of physical violence?	19 Q She's an RN now?
19 Q	No.	20 A But she was an LPN at the time.
20 A	When you reported the call from Princess to Beth and Lisa Herman, what was their response?	21 Q Is there anyone else on the spinal cord unit who you believe discriminated against you on the basis of your race?
21 Q		22
22 A		23
23 Q		24 MS. PIZZINO: Objection. It calls for a legal conclusion. You can answer.
24 A		25
	Page 115	Page 117
1 A	They would take care of it.	1 A I don't know, not to my knowledge.
2 Q	Do you know if they took care of it?	2 Q On or about May 10th, 2013, you went to the Office of Resolution Management to file your complaint. Do you recall that day?
3 A	I didn't have any contact on that floor, so I don't remember. I can't speculate.	3
4		4 A I recall the incident. I don't recall the day.
5 Q	And you said you had blocked her phone number after that, so you didn't receive any additional calls from Princess after you reported it to Beth or Lisa?	5 Q Okay. Do you recall going to the VA between March 28th and May 10th?
6		6 A That could be the time frame. I can't speculate a time. I was going to a lot of places that I was directed to go to.
7		7
8 A	No.	8 A That could be the time frame. I can't speculate a time. I was going to a lot of places that I was directed to go to.
9 Q	Anyone else on the spinal cord unit that contacted you or threatened you?	9
10 A	No.	10 Q But you don't recall any specific incidence of visiting the VA physically between March 28th and May 10th?
11 Q	I believe that you stated that Princess discriminated against you on the basis of race; is that correct?	11 A 13
12 A	Correct.	12 A 14
13 Q	When is the first time you believe that Princess discriminated against you on the basis of race?	13 A 15
14 A	I can't recall the exact date. I just know she would talk to me and say that maybe me being white and her being black, that I need to stick to my own race and stop, so and that was when I was working on the unit so.	14 A 16
15 Q	So this would have occurred before March 27th, 2013?	15 A 17
16 Q		16 Q On the days that you would go to the VA, did you see any of your co-workers from the spinal cord unit?
17 A		17
18 Q		18 A 19
19 A		19 A 20
20 Q		20 Q 21
21 A		21 A 22
22 Q		22 A 23
23 A		23 A 24
24 Q		24 Q 25
25 A		25 A Not that I can remember. Those are just the

		Page 118	Page 120	
1	ones that stand out.			
2 Q	When you would see them in the hallway after you made your police report, did any of those people you listed, Ebony, Swails, Princess, make any comments to you?		1 a conversation besides the first day when you met with Beth on the 27th of March.	
3		3 A	When I would meet with Beth, and I can't recall the dates, I just know the times that I would meet with her, I would always ask her, "Is there anything still available off of Wade Park?"	
4		7	And she would always respond, "No, not at this time. I will let you know when we have an opening."	
5		10 Q	Do you recall any of the time frame that you would meet with Beth between March and the date of the mediation?	
6 A	No, I got the silent treatment.	13 A	Only when I had to fill out paperwork on FMLA, because I had to get her signature or Lisa Herman's signature, but other than that, no.	
7	MS. BACCHUS: We're about	15 Q	16 Q	And to the best of your knowledge, was there any other conversations with your attorney about the transfer prior to the mediation?
8	12:30. You want to take 20 or 30 minutes?	19	MS. PIZZINO: Objection.	
9	MS. PIZZINO: Okay.	20	Attorney-client privilege.	
10	MS. BACCHUS: We'll be here.	21	MS. BACCHUS: I'm not asking	
11	(A 30-minute lunch break was taken.)	22	her --	
12	MS. BACCHUS: Back on the	23 Q	-- from what you and your attorney talked about	
13	record.	24	I'm asking did your attorney contact Lisa Herman about a transfer?	
14	By Ms. Bacchus:	25		
15 Q	Ms. Katz, I wanted to ask you about the request for the transfer when you first made a report of the harassment to the police department and you said Beth told you she would have to get back to you.			
16		1 A	Oh, absolutely.	
17		2 Q	Do you have any documentation of that occurring?	
18		3 A	We have lots of documentation of that.	
19		4 Q	So you have documentation of letters being sent to Beth or Lisa regarding a transfer?	
20 A	Yes.	5 A	I can't recall who they were sent to. I just know that there was many letters.	
21 Q	Were there any subsequent conversations about that transfer around the time of March or April?	6 Q	From your attorney to the VA?	
22		7 A	Uh-huh.	
23 A	Just me asking her for the transfer was about all that I got from her.	8 Q	10 Q	Can you produce those letters for us please?
24		9 A	MS. PIZZINO: Well, let me just	
25 Q	Did you follow up with Beth about the transfer?	11	object. She's not in control over what Pam Kurt has, so I don't know if you're asking about --	
		12	is that what you're asking for if she has letters of Pam Kurt?	
		13	16 Q	I'm asking do you have copies of letters sent to the VA on your behalf from your counsel?
		14	MS. PIZZINO: She's asking if	
		15	you have them in your possession?	
		18	19	Oh, no.
		20 A	21 Q	Then how do you know there were many letters?
		21	22 A	I've seen them.
		22	23 Q	Okay. Who were the letters addressed to?
		23	24 A	I can't recall who they were addressed to. I just know Department of Veterans Affairs.
		25		

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1 Q	Do you know what dates these letters were sent to the VA?	1 paperwork that I filled out.
2 A	I can't recall.	2 Q And when was that?
3 Q	Do you know if you received a response from the VA to any of those letters in writing?	3 A I can't recall that date.
4 A	The only response that I can recall is when we were sitting around the mediation table with my attorney, the VA attorney, and Beth Noelker and the statement that came to us was unless I drop the charges, they weren't going to relocate me.	4 Q After you learned that the Union had lost the paperwork, did you make another request in writing for a transfer?
5		5 A I made many requests for transfers.
6		6 Q And when you say "made many requests," were any of those requests in writing?
7		7 A Yes.
8		8 Q And do you have copies of those requests in writing that you personally made?
9		9 MS. PIZZINO: Can we go off the record a minute?
10		10 (A discussion was off the record.)
11		11 MS. BACCHUS: We're going on the record. I'm sorry, you said you provided those to me in discovery. I don't have any requests that was written by Ms. Ryan's handwriting besides for her EEO complaints.
12		12 MS. PIZZINO: They were in that packet that we submitted to the Judge. Those were in her handwriting.
13		13 MS. BACCHUS: All right. We'll go off the record and we'll go get that package
14		14
15		15
16		16
17		17
18		18
19		19
20		20
21		21
22		22
23		23
24		24
25		25
	Page 123	Page 125
1 Q	What do you recall about that conversation?	1 and we'll see what's in there.
2 A	That I had to fill out paperwork and have it in writing and I did.	2 (Off the record.)
3		3 MS. BACCHUS: We'll go back on
4 Q	And is that the transfer you said you made on the very first day, March 27th, 2013?	4 the record. We're going to mark this as
5		5 Government's Exhibit H. And unfortunately, I
6 A	Yes.	6 don't have these Bates-stamped, because this is
7 Q	And did you specifically give that paperwork to anyone?	7 a copy you e-mailed to me.
8		8 (Government's Exhibit H was marked for
9 A	Union.	9 identification.)
10 Q	Do you know what the Union did with that paperwork?	10 Ms. Ryan, before we went off the record, your
11		11 counsel indicated that you provided copies of
12 A	I don't recall what they did with that, no.	12 the statement, the transfer requests that you
13 Q	Do you have any knowledge that the Union gave that paperwork to either Ms. Herman or Ms.	13 had made, and that it was in the submittal to
14		14 the Court.
15		15 This was a submittal to the Court that was
16 A	No.	16 received in our office via e-mail from your
17 Q	There came a point in time according to your statement to the EEO investigator that you learned that the Union lost your paperwork; is that correct?	17 counsel. Can you look through, and it's front
18		18 and back side, and tell me which pages has your
19		19 written request for a transfer.
20		20 MS. PIZZINO: I'm going to
21 A	Correct.	21 correct the record. I indicated to counsel that
22 Q	When did you learn that the Union had lost your paperwork requesting a transfer?	22 there were documents within this packet that I
23		23 submitted that's now marked as Exhibit H that
24 A	When they had new Union members in there in the office and I had asked for a copy of the	24 included handwritten requests by Ms. Ryan to be
25		25 transferred.

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1	MS. BACCHUS: Okay.	1 A Which one now?
2	MS. PIZZINO: I just want to	2 Q It says "Plaintiff's Exhibit A" down at the
3	make that clarification, it includes, but at the	3 bottom there.
4	time I submitted this, I was on the case for	4 A Yes.
5	about 38 days --	5 Q And following that page, is Plaintiff's Exhibit
6	MS. BACCHUS: We don't need all	6 B which is request for a medical documentation;
7	of that.	7 correct?
8	MS. PIZZINO: -- and there's	8 A Yes.
9	been -- I'm still making a --	9 Q And then the following pages marked Plaintiff's
10	MS. BACCHUS: You made your	10 Exhibit C and it appears to be pages from an
11	objection and that's it. Let's go forward.	11 affidavit of transcript proceeding for Annette
12 Q	Okay. Can you just tell me what pages in	12 Ryan on February 27th, 2014; is that correct?
13	Exhibit H has your handwritten requests for a	13 A Yes.
14	transfer?	14 Q And that takes another three pages; correct?
15	MS. PIZZINO: You can go	15 A Yes.
16	through it. Take your time. Go through this	16 Q Then Plaintiff's Exhibit D, the page marked
17	exhibit page by page.	17 Plaintiff's Exhibit D is an authorization for
18 A	Could you repeat the question?	18 release of medical information, EEO Complaint of
19 Q	Sure. I asked you if you can tell me in Exhibit	19 Annette Ryan; is that correct?
20	H which page has your handwritten form, your	20 A Yes.
21	personal submission for a request for a	21 Q Then the following page which is marked
22	transfer.	22 Plaintiff's Exhibit E is another letter written
23 A	This is in terms that I don't understand. This	23 to you dated February 13th, 2014, from Andrea
24	is lawyer talk, so I can't pinpoint to you which	24 Freeman; is that correct?
25	ones would be that. I don't understand it.	25 A Yes.
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1 Q	Can you flip through the pages and tell me if	1 Q The next page which is marked Plaintiff's
2	there is any page in there that you submitted to	2 Exhibit F says, "Affidavit Transcript of
3	the VA personally requesting a transfer? That's	3 Proceedings in the above-entitled action of the
4	all I'm asking.	4 examination of Roseann McDevitt" dated February
5 A	I don't know how to answer that. Again, that's	5 12, 2014, and that's two pages; is that correct?
6	lawyer talk and this doesn't help me looking at	6 A Correct.
7	these exhibits.	7 Q The following page is marked Plaintiff's Exhibit
8 Q	Okay. Can we agree that if you made a request	8 G and is a letter from Community Health Care
9	in writing personally to the VA, it would be in	9 that is written to you dated February 4th, 2014;
10	this exhibit?	10 correct?
11	MS. PIZZINO: Objection.	11 A Correct.
12	Objection, because this is something that I	12 Q The next page which is marked Plaintiff's
13	submitted and counsel has not given my client	13 Exhibit H is an affidavit of transcript
14	time to look through the entire document, nor	14 proceedings of Annette Ryan dated January 28th,
15	has she. She's looked through the first four	15 2014, and that is two pages; is that correct?
16	pages and she can't testify about something that	16 A Correct.
17	she has not looked at.	17 Q Then the following page is Plaintiff's Exhibit I
18 Q	All right. Let's walk through the document.	18 which is a written confirmation of request for
19	Exhibit H, page one through six is something	19 accommodation and that is completed by you;
20	that your counsel said that she prepared. Can	20 correct?
21	we agree to that?	21 A Correct.
22 A	Yes.	22 Q And in that written request for accommodation,
23 Q	The next page which is marked Plaintiff's	23 it says to your accommodation requested was to
24	Exhibit A of Exhibit H is a letter addressed to	24 be "Removed from Cleveland VA and put into CBOC
25	you from Mr. Kafer; correct?	25 off-site"?

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1 A	Correct.	1 correct?
2 Q	And that was dated December 20th, 2013?	2 A Correct.
3 A	December 20th, 2013, yes.	3 Q The next page is identified as Plaintiff's Exhibit Q and this is a letter to you from the Department of Veterans Affairs regarding your EEO complaint; is that correct?
4 Q	In that document as identified as Plaintiff's Exhibit I, did you identify any vacant position for which you were applying?	4 Are we looking at R, oh, sorry, yes, correct.
5		5 Next page is Plaintiff's Exhibit R and it is letter from Catholic Charities addressed "To Whom It May Concern" dated August 5th, 2013; is
6		6 that correct?
7 A	No.	7 A Correct.
8 Q	The following page of the exhibit is labeled Plaintiff's Exhibit J and it is letter addressed to you dated December 12, 2013, regarding reasonable accommodation; is that correct?	8 Q Next page is Plaintiff's Exhibit S. It appears to be an e-mail sent by you to Joseph Picklo?
9		9 A Yes.
10		10 Q And it is in regards to forms that need to be completed?
11		11 A Forms that need to be completed?
12 A	Correct.	12 Q That's what the subject line says.
13 Q	The following page is identified as Plaintiff's Exhibit K and it appears to be e-mails?	13 A Oh, okay, yes.
14		14 Q Can you read through your e-mail and tell me if you made a request for a transfer in this e-mail.
15 A	Correct.	15 A What was your question again?
16 Q	Following page is marked Plaintiff's Exhibit L and it is dated November 27th, 2013, and it is a letter addressed to you; correct?	
17		
18		
19 A	Correct.	
20 Q	From Community Health Care?	
21 A	Correct.	
22 Q	The following page identified as Plaintiff's Exhibit M, it is a memorandum from Department of Veterans Affairs and it is to the chief of the Human Resources Department regarding	
23		
24		
25		
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1	discretionary leave without pay; is that correct?	1 Q Did you make a request for a transfer in this e-mail to Mr. Picklo?
2		2 A Unless I'm missing something, I don't believe so in this e-mail.
3 A	Correct.	3 Q And on the following page there's another short e-mail from you to Mr. Picklo and that states, "I sent you all the information I have including his charges. Thank you. I am unable to work due to the trauma and emotional distress this man has caused in my life" and that's the complete e-mail; correct?
4 Q	The next page is identified as Plaintiff's Exhibit N and it is a "Certification of Health Care Provider for Employee's Serious Health Condition"; is that correct?	4 A Correct.
5		5 Q Next page which is identified as Plaintiff's Exhibit T is a letter addressed "To Whom It May Concern" regarding Annette Ryan dated July 24th, 2013; is that correct?
6		6 A Correct.
7		7 Q Plaintiff's Exhibit U which is the next page is a letter from Rape Crisis to the Attorney General's Office dated June 18th, 2013, written on your behalf; is that correct?
8 A	Correct.	8 A Correct.
9 Q	And the next page is identified as Plaintiff's Exhibit P and this is a counselor report and that's the equivalent of four pages I believe;	9 Q Next page is identified as Plaintiff's Exhibit V and it is a "Certification of Health Care Provider for Employee's Serious Health
10		10 A
11		11 A
12		12 A
13		13 A
14		14 A
15		15 A
16		16 A
17		17 A
18		18 A
19		19 A
20		20 A
21		21 A
22		22 A
23		23 A
24		24 A
25		25 A

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1	Condition" and this was completed by Dr. Holmer	1	correct?
2	on your behalf; is that correct?	2	A What page are you on?
3	A Correct.	3	Q At Attachment B when you flip the page past it.
4	Q The next document identified as Plaintiff's	4	Keep going. Does yours have an Attachment B?
5	Exhibit W is a May 22nd, 2013 letter to you from	5	A Yes.
6	the Department of Veterans Affairs; is that	6	Q So besides for the documents that have been
7	correct?	7	identified in Defendant's Exhibit H, did you
8	A Correct.	8	make any other written requests for a transfer
9	Q And that's front and back page; right?	9	yourself?
10	A Yes.	10	A From what I can recall, this seems to be it.
11	Q Then there's the next document identified as	11	Q Are you alleging that anyone else at the VA who
12	Plaintiff's Exhibit X and it appears to be an	12	made a complaint for sexual harassment received
13	incomplete copy of the original complaint for	13	a transfer once they made a complaint and
14	employment discrimination; correct?	14	requested it?
15	A It looks to be complete to me.	15	MS. PIZZINO: Objection.
16	Q Well, let's go back, because there's another one	16	Speculation.
17	that you had identified in --	17	Q You can answer if you know.
18	A I believe all the boxes are filled in.	18	A I don't quite understand what you're asking.
19	Q Compare Plaintiff's Exhibit X to the one that's	19	Q My question is: Are you aware of any other
20	marked Plaintiff's Exhibit O please.	20	employee who made a complaint for sexual
21	MS. PIZZINO: Renee, did you	21	harassment, requested a transfer and got it?
22	say O?	22	A Roseann.
23	MS. BACCHUS: Uh-huh.	23	Q Anyone else?
24	Q Do you see the middle box under number seven	24	A No.
25	appears to be complete on Exhibit O as compared	25	Q And Roseann got a transfer through the
Page 135		Page 137	
1	to Plaintiff's Exhibit X where number seven is	1	settlement of her EEO complaint?
2	incomplete?	2	A Her settlement was to drop her suit and then she
3	A I'm not going to say that this is incomplete,	3	would get transferred and that's what she did.
4	because I don't know that.	4	Q Outside of settling the EEO complaint, are you
5	Q Okay. Well, looking at Exhibit O, did you fill	5	aware of anyone else who requested a transfer
6	in that information under number seven?	6	after filing sexual harassment complaints and
7	A Yes, I signed it.	7	received it?
8	Q Okay. And looking at Exhibit X, did you sign	8	A No.
9	this document as well?	9	Q Are you aware of any policy of the VA that
10	A Yes.	10	requires the VA to transfer the victim who
11	Q Okay. And do you know what date you signed this	11	alleges sexual harassment?
12	letter?	12	A No.
13	A On this one?	13	Q Were you made aware of Mr. Garrett being
14	Q Exhibit X, yes. It appears undated, correct,	14	reassigned to the Akron CBOC?
15	next to your signature?	15	A Yes.
16	A Yes.	16	Q And when were you made aware of that?
17	Q Then after that is Plaintiff's Exhibit Y and it	17	A I can't recall the exact date. I was told by
18	appears to be a progress note from Wanda Hively;	18	the prosecutor.
19	is that correct?	19	Q You were never told by Beth Noelker?
20	A Yes.	20	A I could have been, yes. I don't know. I can't
21	Q And then there's an Attachment A. It has some	21	recall that.
22	preprinted information; correct?	22	Q After you filed your complaint of sexual
23	A Yes.	23	harassment with the police department on March
24	Q Then there's an Attachment B that appears to	24	27th, 2013, did you have any contact with MD
25	have a page out of the VA handbook; is that	25	Garrett in the workplace?

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1 A	Can you rephrase that?	1 someone with the last name as Greene?
2 Q	After March 27th when you reported to the VA police department and made your report, did you have any contact with Mr. Garrett at the VA?	2 A Yes.
3		3 Q And it says, "I am an emotional mess. My days are filled with counselors, therapy, and running back and forth to the VA police and Cleveland police. The police are charging and arresting him tomorrow. So I was told by the police that he could retaliate, so I am very scared and just" -- and then it stops there; correct?
4		4
5 A	I did not return to work, so no.	5
6 Q	What's the first day that you can recall visiting your physician for a leave slip from work?	6
7		7
8		8
9 A	For a leave slip?	9
10 Q	Yes.	10 A Correct.
11 A	I just know it was in April.	11 Q Do you know what day this was actually written?
12 Q	Now did you request your physician to fill out an FMLA leave slip for you?	12 A It was probably April. I can't -- I don't know.
13		13 Q Was this written before you received the paperwork for the FMLA from Dr. Holmer?
14 A	Yes.	14
15	(Government's Exhibit I was marked for identification.)	15 A No. Oh, wait, was this written before?
16		16 Q Exhibit I, was this written before Dr. Holmer
17 Q	Ms. Ryan, I've handed you what's been marked as Government Exhibit I. Do you recognize this document?	17 filled out the FMLA certification for you?
18		18 MS. PIZZINO: Objection.
19		19 Speculation.
20 A	Yes.	20 A I don't recall.
21 Q	Okay. And the first page is a handwritten note; is this your handwriting?	21 Q You don't recall?
22		22 A No.
23 A	Yes.	23 Q The very next page is FMLA guidance and it says, "Employee." Is this information that you
24 Q	And there is a date up top. It says 3/4/13, is that an error?	24 provided to Dr. Holmer?
25		25
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1 A	Yes, that is an error.	1 A I can't recall that.
2 Q	And the note appears to be incomplete. Did you keep a copy of this note?	2 Q If Dr. Holmer testified that you had provided it to her, would you dispute that?
3		3
4 A	No.	4 A No.
5 Q	Do you know -- you can read through it and then tell me if you know what the next line was supposed to be.	5 Q This appears to be a page from -- it appears to be information provided by the Union to employees. Do you know that this was information that is provided by the Union?
6		6
7		7
8 A	I can't recall four years ago.	8 I can't recall that. I don't know.
9 Q	Okay. Now according to your note to Dr. Holmer, you said you "told HR I was taking the full 12 months." What do you mean by full 12 months?	9 A
10		10 Q Is that your handwriting on the bottom of Exhibit I, second page?
11		11
12 A	Because for FMLA, they explained it to me is that you can take up to 12 months.	12 A Yes.
13		13 Q On the bottom, it says, "If you can put
14 Q	Was it explained to you that you can take a continuous amount of time off for 12 months?	14 yesterday's date on 4/2/2013 and through
15		15 4/2/2014"; correct?
16 A	You have to come back at that time and have additional paperwork filled out.	16 A Yes, it says "Advised by HR."
17		17 Q And this guidance gives information about the Family Medical Leave Act. It states in the second paragraph, "The Family and Medical Leave Act FMLA provides Federal employees with a statutory entitlement to a total of 12
18 Q	And who explained it to you this way?	18 administrative weeks (480) hours of Leave
19 A	HR.	19
20 Q	Who in HR?	20
21 A	I don't know her name. Something Greene, last name Greene.	21
22		22
23 Q	Mary Greene?	23
24 A	That could be her name.	24
25 Q	But you specifically remember speaking with	25 Without Pay (LWOP) during any 12-month period of time for the purpose of tending to specified family and medical needs. Accrued leave may be

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1	substituted for Leave Without Pay when 2 appropriate. To be eligible for FMLA, employees 3 must have completed 12 months of service. 4 Temporary and intermittent employees are 5 ineligible for FMLA."	1 your position as an LPN in April of 2013? 2 A Again, on that unit. 3 Q So tell me what duties could you perform as an 4 LPN if you were not assigned to the spinal cord 5 unit. 6 A I could perform being a nurse off of Wade Park, 7 not in the area that I had the trauma. I would 8 be a regular nurse being able to do my job. 9 Q And if you were working for another hospital 10 system, would you have been able to perform the 11 job duties of an LPN in April of 2013? 12 MS. PIZZINO: Objection. It 13 calls for a legal conclusion. 14 MS. BACCHUS: It does not call 15 for a legal conclusion. 16 Q Please answer the question. 17 A I suffered a sexual trauma, no, I would not be 18 able to work. 19 Q So why is it that you believe that you would 20 have been able to work in a facility off of Wade 21 Park not assigned to that unit, but you would 22 not be able to perform the job somewhere else or 23 for a different employer? 24 A The next question that you said, you used the 25 dates. You didn't use the dates in the first
1	you understand, answer. 2 Q Do you know what incapacitated means? 3 A On that unit, I would have been incapacitated, 4 yes. 5 Q You were incapacitated for duty; correct? 6 A On that unit. 7 Q Do you understand what a serious health 8 condition means? 9 A Yes, I do. 10 Q Are you aware that that term is defined in your 11 union contract? 12 A Would you like to show me that? 13 Q I'm asking you, are you aware that the term 14 "Serious medical condition" for purposes of FMLA 15 is defined in your union contract? 16 A No, I'm not. 17 MS. PIZZINO: Objection. 18 Relevancy to this entire line of questioning. 19 Q According to the union contract, you are 20 incapacitated due to a serious health condition 21 of the employee when you are unable to perform 22 the functions of your position. You were 23 employed as an LPN; correct? 24 A Correct. 25 Q So were you unable to perform the functions of	Page 143 1 question. 2 Q Let me clarify then. As of April 2013, would 3 you have been able to perform the job duties of 4 the LPN position at any other facility whether 5 it be VA off of Wade Park, MetroHealth, 6 University Hospitals? Would you have been able 7 to perform the duties of an LPN? 8 A Not that month which was directly right after. 9 Q When do you believe you would have been able to 10 perform the job duties of an LPN anywhere but 11 Wade Park? 12 A Given time to heal, five months after. That's 13 my speculation for me off of that unit. 14 Q So you believe that you would have been able to 15 perform the job duties of an LPN at any place 16 other than Wade Park as of August 2013? 17 MS. PIZZINO: Objection. 18 Mischaracterization of her testimony. 19 Q Five months, April, May, June, July, August. So 20 after August, before August; what did you mean 21 by five months? 22 A Giving me time to heal, yes. 23 Q What specific duties could you not physically 24 perform at Wade Park campus as an LPN due to the 25 trauma?

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1	MS. PIZZINO: Objection. Asked		
2	and answered.		1 Q Is the blind unit at Wade Park?
3	MS. BACCHUS: No, she's never		2 A Yes.
4	told me which duties she could not perform.		3 (Government's Exhibit K was marked for
5 A	Any duties.		4 identification.)
6 Q	And why is that?		5 Q Okay. I've handed you what's been marked as
7 A	Because you're asking me to think critically as		6 Government's Exhibit K. Have you seen this
8	a nurse and I could not think critically as a		7 document before?
9	nurse during the trauma that I endured.		8 A Yes.
10 Q	So you couldn't think critically as a nurse and		9 Q And this document is entitled "Certification of
11	you believe you couldn't think critically as a		10 Health Care Provider for Employee's Serious
12	nurse for approximately five months; correct?		11 Health Condition" and under that it says,
13	MS. PIZZINO: Objection.		12 "Family and Medical Leave Act"; correct?
14 Q	Is that correct?		13 A Correct.
15 A	Correct.		14 Q And this document was completed by your
16 Q	So after five months, what duties do you feel		15 physician, Michelle Holmer?
17	you could not perform at Wade Park as an LPN?		16 A Yes.
18 A	I would not be able to perform any duties at		17 Q And according to the document, Part A on the
19	Wade Park ever.		18 second page, it asks question one, "Approximate
20 Q	So if you were unable to perform any duties at		19 date condition commenced: March 28th, 2013";
21	Wade Park ever, why did you request as a remedy		20 correct?
22	in your EEO complaint dated August 13th, 2013,		21 A Correct.
23	to be transferred to the blind unit at Wade		22 Q It says, "Probable duration of condition:
24	Park?		23 Indefinite, minimum several months, may be much
25 A	I wanted anything I could as a transfer, but		24 longer," did I read that correctly?
			25 A Yes.
		Page 147	Page 149
1	they weren't giving me any transfer.		1 Q Then under question three, it states, "Use the
2 Q	So you would have been willing to go to Wade		2 information provided by the employer in Section
3	Park as a resolution -- I'm sorry, as requested		3 I to answer this question. If the employer
4	as a resolution in your EEO complaint dated		4 fails to provide a list of the employee's
5	August 2013?		5 essential functions or a job description, answer
6	MS. PIZZINO: Objection to EEO		6 these questions based upon the employee's own
7	complaint. It's mischaracterizing the complaint		7 description of his/her job functions."
8	if you look at the document.		8 Did you ever tell Dr. Holmer what your job
9	(Government's Exhibit J was marked for		9 functions were at the VA?
10	identification.)		10 A Yes.
11 Q	Ms. Ryan, I've handed you what's been marked as		11 Q What did you tell her your job functions were?
12	Government's Exhibit J. It is a copy of an EEO		12 A I can't recall four years ago.
13	complaint -- I'm sorry, it says, "Complaint of		13 Q And under three, the next question says, "Is the
14	Employment Discrimination" and your signature		14 employee unable to perform any of his/her job
15	appears at the bottom and it's dated August 12,		15 functions due to the condition" and she didn't
16	2013; is that correct?		16 answer that question; is that correct?
17 A	Correct.		17 A No, she answered it. It says "unable."
18 Q	And it says, "Remedy Requested" I believe. I		18 Q No, there's no check by yes or no; is there?
19	think it's number ten. It's kind of hard to		19 MS. PIZZINO: Objection. The
20	make out. It says, "I want to either be		20 document speaks for itself. There's no
21	reassigned to Parma CBOC or to day shift on the		21 foundation.
22	blind unit on the basement level"; is that		22 Q According to the document, it does not have a
23	correct?		23 check by yes or no; correct?
24 A	Correct, the blind unit is separate from the		24 A I believe she answered the question, but she did
25	whole building.		25 not --

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1 Q	That is not the question I asked you. I asked you is there a check by yes or no?	1 Q	Did you have annual -- were you checking that to say you wanted annual leave for a year?
2 A	No.	2 A	It says "Total hours zero."
4 Q	The next line says, "If so, identify the job functions the employee is unable to perform:"	4 Q	So on that line for zero, it says that you wanted leave from April 9th, 2013 to April 10th, 2014?
6 A	And it just says "unable"; correct?	7 A	I went by however Lisa Herman wanted me to put the dates to fill this form out, so I actually don't -- I don't know what -- I can only tell you what Lisa Herman had me fill out for here.
7 A	That's what's on the document, yes.	11 Q	Did you write in those dates?
8 Q	If you'll flip the page, Part B says, "Amount of Leave Required" and it asks, "Will the employee be incapacitated for a single continuous period of time due to his or her medical condition, including any time for treatment and recovery" and it's checked yes; correct?	12 A	That she told me to fill in, yes.
14 A	Yes.	13 Q	But you signed the certification requesting that amount of leave?
15 Q	"If so, estimate the beginning and ending dates for the period of incapacity" and it states July 1st, 2013; correct?	15 A	Uh-huh.
18 A	Correct.	16 Q	And you state under "Remarks: Once I have exhausted AL and SL accrued, I am requesting sick leave in advance" -- I don't know what that says. Do you know what that says?
19 Q	Then at the bottom, it asks for any additional information and that appears to be left blank?	20 A	Under where?
21 A	Where?	21 Q	I'm under number six.
22 Q	Very bottom of the page.	22 A	This was a recommendation by Lisa Herman. I filled in what she told me to put in here, "Sick leave and advance."
23 A	Yes, she doesn't have any additional information to add.	25 Q	If you can make it out.
25 Q	This was signed by Dr. Holmer according to the		
	Page 151	Page 153	
1	document on April 8th, 2013?	1 A	I don't even know.
2 A	Yes.	2 Q	And your signature is on here dated 4/9/2013; correct?
3 Q	Did Dr. Holmer provide this document directly to you or did she submit it to the VA on your behalf?	4 A	Correct.
6 A	She made a copy for me and sent it into the VA.	5 Q	In the following page you applied for the Voluntary Leave Transfer Program?
7 Q	Did you disagree with any of Dr. Holmer's conclusions as stated in her certification?	7 A	Yes, that was also with Lisa Herman's recommendation.
9 A	No.	9 Q	Was that approved for you?
10 Q	And the very next page of the exhibit is "Request for Leave or Approved Absence," is that your handwriting on this request?	10 A	It was approved, but nobody gave me any.
13 A	Except for the signature of Lisa Herman, that's my writing, yes.	11 Q	I'm sorry, I didn't hear that.
15 Q	And you requested leave from April 9th, 2013 to April 10, 2014?	12 A	Nobody gave me any.
17 A	Where?	13 Q	And Bates-stamp page 494 is a handwritten note. Is this your writing?
18 Q	I'm looking at the top where it says "Dates from and to"?	14	
20 A	On here, oh, the "Leave Without Pay" or up here?	15 A	Yes.
21 Q	At number four.	16 Q	Now was this to apply for the Voluntary Leave Program?
22 A	Okay. What line are you on?	18 A	Yes.
23 Q	I'm at the very first line where it says "From and to"?	19 Q	If you would turn to the Bates-stamp page 500 and this document is "Certification of Health Care Provider for Employee's Serious Health Condition (Family Medical Leave Act)"; is that correct?
25 A	For accrued annually?	24 A	Yes.
		25 Q	And this was completed for you by Dr. Holmer,

	Page 154	Page 156
1	your physician?	1 A Yes.
2 A	Yes.	2 Q And your signature is dated June 24th, 2013?
3 Q	And according to Part A on the next page,	3 A Yes.
4	Bates-stamped 501, it says, "Approximate date	4 Q And you were requesting leave from June 27th,
5	condition commenced: March 28th, 2013.	5 Q 2013, until September 2nd, 2013?
6	Probable duration of condition: Indefinite -	6 A Yes.
7	minimum several months, may be longer"; do you	7 Q Let me direct your attention now to page 469
8	see that?	8 Bates-stamped. That to is a "Certification of
9 A	Yes.	9 Health Care Provider for Employee's Serious
10 Q	Did you agree with that?	10 Health Condition (Family Medical Leave Act)."
11 A	Yes.	11 This was signed by your family doctor,
12 Q	And under question number three, there's a	12 Michelle Holmer; is that correct?
13	question again, "Is the employee unable to	13 A Yes.
14	perform any of his or her job functions due to	14 Q And, again, under question number one, It says,
15	the condition" and she does not check yes or no;	15 "Approximate date condition commenced: March
16	correct?	16 28th, 2013" and it says, "Probable duration of
17 A	Correct.	17 condition: Many months"; is that correct?
18 Q	And then under there the next line says, "If so,	18 A Yes.
19	identify the job functions the employee is	19 Q Did you agree with her conclusion?
20	unable to perform" and she writes "Unable to	20 A Yes, I did.
21	perform any of her job duties on currently	21 Q And under question number three, there is "Is
22	assigned unit"; correct?	22 the employee unable to perform any of his/her
23 A	Correct.	23 job functions due to the condition" and there is
24 Q	Did you agree with that?	24 no check mark by the question yes or no;
25 A	Yes.	25 correct?
	Page 155	Page 157
1 Q	If you turn to Part B, it says, "Amount of Leave	1 A Correct.
2	Needed", it says, "Will the employee be	2 Q And under that, it says, "If so, identify the
3	incapacitated for a single continuous period of	3 job functions the employee is unable to
4	time due to his or her medical condition,	4 perform," and it says, "Unable to perform any of
5	including any time for treatment and recovery?"	5 her job duties on currently assigned unit"; is
6	There's a check by the answer yes.	6 that correct?
7	It says, "If so, estimate the beginning	7 A Correct.
8	and ending dates for the period of incapacity:	8 Q If you flip the page, again, question number
9	March 28th, 2013 beginning to September 2nd,	9 five, it says, "Will the employee be
10	2013 ending"; do you see that?	10 incapacitated for a single continuous period of
11 A	Yes.	11 time due to his or her medical condition,
12 Q	Did you agree with her conclusion?	12 including any time for that treatment and
13 A	Yes.	13 recovery?" She checks the box yes. "If so,
14 Q	And, again, on the bottom of that page where it	14 estimate the beginning and ending dates for the
15	says "Additional Information," it's left blank;	15 period of incapacity: March 28th, 2013 begin,
16	correct?	16 December 2nd, 2013 end"; did you agree with her
17 A	Correct.	17 conclusion?
18 Q	And this was signed by Dr. Holmer on June 13th,	18 A Yes.
19	2013?	19 Q Under the bottom where there's a spot for
20 A	Yes.	20 additional comments, it's left blank; correct?
21 Q	If you will turn to what's been Bates-stamped as	21 A Correct.
22	509 which is a little hard to read, because it	22 Q It's also signed by Dr. Holmer on August 30th,
23	goes over the typewritten words there. This is	23 2013?
24	a "Request for Leave or Approved Absence." Is	24 A Yes.
25	your signature on here?	25 Q Then on the next page which is marked

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1	Bates-stamp 1746 is another "Request for Leave 2 or Approved Absence"; do you see that?	1 A I don't recall that. If I did -- 2 Q It's possible? 3 A Yeah.
4 Q	Under that one, you check, "Leave without pay 5 from September 3rd, 2013 to December 2nd, 2013" 6 and you signed it on August 21st, 2013?	4 Q And when did the mediation take place? 5 A I don't know the exact date. 6 Q It was scheduled for September 26th, 2013, 7 according to the information I have received. 8 Do you have any reason to dispute that? 9 A Without having a document in front of me, I do 10 know that it was cancelled a couple of times by 11 the VA. 12 Q And when you say "by the VA," was that because 13 VA people were unavailable or because the 14 mediator was unavailable or do you know? 15 A I don't know. 16 Q At some point in your statements during this 17 lawsuit, you said that you had a mediation 18 scheduled and the mediator didn't show up? 19 A Oh, Andrea Freeman, yes. 20 Q Andrea Freeman didn't show up? 21 A She couldn't be there. 22 Q But Andrea Freeman was not the mediator; 23 correct? 24 A She was the EEO representative. 25 Q So how many mediations did you actually have?
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1	the informal complaint was filed in May and the 2 formal complaint which is Government Exhibit J 3 was filed in August. Did any mediations 4 transpire between May and August?	1 A One. 2 Q Was the mediator present? 3 A I don't know who the mediator would have been. 4 I was there with my attorney, so I don't know. 5 I just know people there present was Beth 6 Noelker, the VA attorney, and another VA 7 representative. I don't know the titles. 8 Q You said another VA representative. The 9 mediator doesn't work for the VA. 10 A I didn't know that. 11 Q Are you disputing that there was a mediator 12 present or you don't recall? 13 A I don't recall. 14 Q Fair enough. Prior to the mediation around 15 August 28th, did you call Beth Noelker and ask 16 her could you come back to work on the blind 17 unit and just settle the EEO? 18 A No. 19 Q You didn't call her? 20 A No. 21 Q You have no recollection of talking to Beth 22 Noelker? 23 A No. 24 Q You don't recall asking her if you could be 25 assigned to the blind unit with Roseann?

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1 A	Oh, I wanted to be assigned, yes, but I don't recall calling her and asking her that.	1 to be re-assigned to a different location. If you need any additional information, please do not hesitate to contact me."
3 Q	You don't recall it or it didn't happen?	4 Is this the letter that you're referring to that your counsel gave the VA people at the mediation?
4 A	I don't recall it.	5 MS. PIZZINO: Objection.
5 Q	So at the mediation, what happened? What did the VA propose?	6 Speculation. You can answer.
7 A	The VA wanted to know if there was anything in writing from my doctor stating that I could not work on that unit and my attorney stated yes.	9 A My doctor wrote many letters. It could have been any one of them. I don't know which exact one she sent.
8		10 Q So you have no knowledge of what letter was actually provided to the VA?
9		11 A No.
10	And she handed them the letters from the doctor.	12 Q Did you yourself provide any letters directly to the VA from your doctor or from your mental health therapist?
11	They said that there was -- they could transfer me, but I would have to sign a document stating that I would not pursue this suit and everything that's going on. And I turned to my attorney and I asked her what I should do and she said, "If you settle, we can't fight this case," so it was up to me.	13 A Yes, I did.
12	And I said, "I'm not willing to drop this case." So they said then this meeting is going to -- we can't go on any further and they weren't going to reassign me.	14 Q What letters do you recall providing?
13		15 A Ever single letter I got from Dr. Holmer was made copies and sent to the VA.
14		22 Q You sent them directly?
15	And you said that your attorney gave them letters. What letters did she give them?	23 A Yes.
16		24 Q Who did you send it to?
17		25 A Beth Noelker.
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1	(Government's Exhibit L was marked for identification.)	1 Q How did you send it Beth?
2		2 A I usually hand-delivered or put it in her inner mail like in her office --
3 Q	And handing you what's been marked as Government's Exhibit L. The first page is a letter from Catholic Charities to whom it may concern dated August 5th.	4 Q So you would --
4		5 A -- when I was up there. Prior to not going up there, I gave it to my attorney.
5		7 Q But you don't recall specifically what days you actually did go to the VA?
6		9 A No.
7	And you stated that your attorney gave letters from your doctor to the VA people who were present at the mediation. Is this one of the letters that your counsel gave them?	10 Q If you turn to the last page of Exhibit L, there is a letter. It is dated November 27th, 2013, and it's addressed to you, but it says, "To Whom It May Concern," it's from Community Health Care signed by Dr. Holmer.
8		15 It states, "Annette has been suffering from Post-Traumatic Stress Disorder due to sexual harassment/assault by a co-worker in the job. She has continued to have symptoms related to these events and cannot return to job duties on her currently assigned unit at this time. Unless resigned to work on a different unit, her time off needs to continue indefinitely."
9		23 Do you know who you gave this letter to?
10		24 A No, I can't recall.
11	MS. PIZZINO: Objection.	25 Q Did you keep any type of documentation when you
12 A	The letter that was given was from Dr. Holmer.	
13 Q	So you don't believe this was one of the letters that was given to them?	
14		
15 A	No.	
16 Q	If you turn to the next page of Exhibit L, there's a letter from Dr. Holmer. It is dated July 24th, 2013. It says, "To Whom It May Concern: Ms. Ryan has been a patient in my office for many years. Recently, she has been seen on several occasions for symptoms of PTSD related to an alleged sexual assault by a co-worker. As a result of this assault, there was also a conflict with other employees on that unit as well. It would be in her best interest	

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1	would deliver letters either by fax or sent 2 certified mail or e-mail or have anybody 3 time-stamp a copy to show that you had submitted 4 it?	1 A I would have given it to my attorney. 2 Q Do you know if your attorney actually sent this 3 over to Beth or anybody else at the VA? 4 A I can't speak for her. I don't know. 5 Q And if I tell you that this document actually 6 appears in the files of the Attorney General 7 Ohio Victims of Crime, does that change your 8 mind as to whether or not you provided a copy of 9 this document to the VA? 10 A No, it does not change my mind. 11 Q At what point do you believe that the VA was 12 aware that you were claiming you had a 13 disability? 14 MS. PIZZINO: Objection. Calls 15 for a legal conclusion. 16 You can answer. 17 (Government's Exhibit M was marked for 18 identification.) 19 Q Ms. Ryan, I'm handed you what's been marked as 20 Government's Exhibit M is another letter from 21 Community Health Care that is dated February 4, 22 2014. It is addressed to you and it says, "To 23 Whom It May Concern: I am writing this letter 24 at the request of Annette Ryan as an update to 25 her current work situation. Please see the excerpt below from my most recent office visit
1	on November 25th, 2013" and then there's some 2 affirmation about your visit. 3 And it says, "As far as I'm aware, there 4 has been no significant change in this 5 situation. If you need any additional 6 information, please do not hesitate to contact 7 me." Did you receive a copy of this letter? 8 A Yes, I did. 9 Q Why did you request Dr. Holmer to write this 10 letter? 11 A Because every time I fill out paperwork to the 12 VA, I have to have a doctor's notation, a 13 doctor's letter. It came directly from them. 14 Q Do you know whom at the VA you gave a copy of 15 this letter to, if anyone? 16 A I always gave it to Beth Noelker. 17 Q Do you know how you provided it to Beth Noelker? 18 A Again, when I was up there, I handed it to her 19 personally or I put it into her box. 20 Q Do you have any recollection of going to the VA 21 after February 4, 2014? 22 A No. 23 Q So if you would not have hand-delivered it to 24 Beth, how else would you have delivered it to 25 her?	16 Q You can answer. 17 A I would like you to rephrase that 18 Q At what point did you either notify the VA that 19 you had a disability or that you believe they 20 knew that you had a disability? 21 MS. PIZZINO: Objection. Calls 22 for speculation of what they knew. 23 A I don't know what they would have known. 24 Q So at what point did you notify them you had a 25 disability?

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1 Q	Did you request an accommodation for a disability?	1 A	Beth Noelker is who I spoke to.
2 A	I requested an accommodation.	2 Q	Anyone else?
3 Q	And why did you request that accommodation?	3	MS. PIZZINO: Objection. Asked
4 A	From the trauma that I endured on that unit.	4	and answered.
5 Q	So are you saying that you did not specifically request an accommodation for a disability?	5 Q	Anyone else?
6 A	I requested a transfer from that floor from that Wade Park because of the sexual assault I endured.	6 A	Lisa Herman.
7 Q	And do you know what a disability is?	7 Q	So what did you tell Beth Noelker about not being able to function, because you couldn't make critical nursing decisions on that floor?
8 A	Yes, I do.	8	
9 Q	Okay. Tell me what your definition of a disability is.	9	
10 A	On that unit --	10 A	That I was sexually assaulted.
11 Q	I don't want hear on that unit. I want to know what you think is a disability in general.	11 Q	Okay. Anything else?
12 A	Someone who can't perform their duties on a floor on the unit where I was sexually assaulted.	12 A	No, my doctor filled out the paperwork.
13 Q	And that was because I believe you said you could not make critical decisions as a nurse?	13 Q	When you say "paperwork," are you talking about the FMLA paperwork?
14 A	Correct.	14	
15 Q	So you believe that your mental ability was impaired?	15 A	And the note. She always had a note that followed the FMLA paperwork.
16		16	
17		17 Q	But as you sit here today, you don't know which notes were actually delivered from your doctor is your testimony; correct?
18 A		18	
19		19 A	It could be one of many.
20		20 Q	Okay.
21 A		21 A	I can't be specific.
22 Q		22 Q	And let's go back to Government Exhibit L and in looking at the page Bates-stamped 671 which is a note from your doctor, is there any statement
23		23	
24		24	
25		25	
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1 A	Can you rephrase, mental capacity or mental ability?	1	that you believe notifies the VA that your mental judgment would be impaired working on that floor?
2 Q	You said that the reason that you could not perform your job duties on that unit, and I think you said anywhere for, at least, five months, was because you could not make critical nursing decisions; did I misstate that?	2	MS. PIZZINO: Objection. The letter speaks for itself. You're asking her to interpret something that --
3 A	No, that's correct.	3	MS. BACCHUS: I heard your objection.
4 Q	So you believe that your mental ability had been impaired?	4	MS. PIZZINO: -- her counsel has said.
5 A	Yes, correct.	5	MS. BACCHUS: There's no speaking objections. We're going to be here all day. I'm trying to get her out of here.
6 Q	And at any point did you tell the VA that you could not work on that unit because your mental ability had been impaired?	6	MS. BACCHUS: I can't read my doctor's mind. I can't interpret what she meant.
7 A	MS. PIZZINO: Objection. Asked and answered.	7	MS. BACCHUS: I asked you what did this mean to you? Is there a statement in here that you believe tells the VA that your mental ability is impaired?
8 Q	I didn't use that wording, no.	8	MS. BACCHUS: You're asking something that happened --
9 A	What did you tell them?	9	MS. PIZZINO: Wait a second, you're on Exhibit L. Can you tell me which page you're on?
10 Q	Who would I have told this to? Beth Noelker.	10	MS. BACCHUS: Page two of 671, a letter from Dr. Holmer dated July 24, 2013.
11 A	Can you be more specific?	11	MS. PIZZINO: Thank you. Are
12 Q	Okay. Who at the VA did you speak to about your mental ability being impaired for critical nursing decisions?	12	
13 A	MS. PIZZINO: Objection. Asked and answered.	13	
14 Q		14	
15		15	
16		16	
17		17	
18		18	
19		19	
20		20	
21		21	
22		22	
23		23	
24		24	
25		25	

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1	you asking her to interpret this letter?	1 perform your job duties on the spinal cord unit
2	MS. BACCHUS: I am not.	2 besides for the fact that you had been sexually
3 Q	I am asking you is there any statement in this	3 assaulted?
4	letter that you believe notified the VA that you	4 A She never asked me.
5	would not be able to think critically as a	5 Q So what did you tell her?
6	nurse on the spinal cord unit?	6 A I didn't volunteer information except for the
7 A	I think it speaks for itself.	7 letters from my doctor. I don't know what
8 Q	That didn't answer my question.	8 you're asking.
9 A	But I can't interpret what she's saying.	9 Q You just told me you told her on many times.
10 Q	You can either tell me yes or no. Answer the	10 A But I don't know what you're asking me. She got
11	question. I'm asking your belief. I'm not	11 the letter. She didn't ask me to describe to
12	asking you to interpret what she says.	12 her what things I could not perform.
13 A	Yes, I think it speaks for itself. I think this	13 I asked for a transfer. The letter spoke
14	letter speaks for PTSD.	14 for itself. I don't know what -- honestly, I
15 Q	It says that you have PTSD; right?	15 don't know what you're asking me.
16 A	Yes.	16 Q So absent of what is stated in the letters, you
17 Q	And that's all it says, right, in terms of a	17 don't recall specifically telling her that you
18	medical condition?	18 could not perform this function or that function
19	MS. PIZZINO: Objection.	19 or why?
20 A	PTSD is numerous things. That's generalized.	20 A Correct.
21 Q	In terms of your medical condition, this letter	21 Q How did it come about that you ended up making a
22	dated July 24, 2013, simply says that you have	22 request for a reasonable accommodation?
23	symptoms of PTSD related to the sexual assault;	23 A Day one with the Union.
24	correct?	24 Q You asked for a transfer then. I'm asking about
25	MS. PIZZINO: Objection.	25 the request for a reasonable accommodation.
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1 A	It's one of many.	1 MS. PIZZINO: Objection. Legal
2 Q	And you also said you spoke with Lisa Herman.	2 conclusion and she answered your question.
3	What did you tell Lisa Herman about why you	3 Q If you can pull out Exhibit H please. I'm
4	could not work on the unit in terms of your	4 sorry, never mind.
5	alleged mental impairment to think critically as	5 (Government's Exhibit N was marked for
6	a nurse?	6 identification.)
7 A	Because I was sexually assaulted. She didn't	7 Q I'm handing you what's been marked as
8	have me go into deep -- because it spoke for	8 Government's Exhibit N, do you recognize this
9	itself. She heard the tape. She heard -- I was	9 document?
10	emotional. She didn't go and ask any more	10 A Not to my recollection. The first page?
11	questions than what was right there in front of	11 Q Yes.
12	her.	12 A No. The second page, yes.
13 Q	So to the best of your recollection, you don't	13 Q The first page shows an e-mail that was written
14	recall ever telling Beth or Lisa that your	14 and you were cc'd and it was sent to your
15	judgment and critical nursing abilities would be	15 counsel. Was that your correct e-mail address
16	impaired if you worked on the spinal cord unit?	16 at the time?
17 A	They did know I was impaired. I did tell them	17 A That is my e-mail address, yes.
18	that I was impaired when I told Beth Noelker.	18 Q And according to this e-mail, it was an e-mail
19	You said Lisa Herman. Beth Noelker, yes.	19 from Sonya Hall. And it says, "Hi Annette, per
20 Q	So specifically tell me what you told Beth.	20 our discussion yesterday, I am attaching the
21 A	Are we going back to the first initial time or	21 reasonable accommodation forms and a letter with
22	an ongoing time? I spoke to Beth on numerous	22 instructions. Please complete and return to me
23	occasions.	23 at your earliest convenience. Feel free to
24 Q	So tell me on any occasions that you can recall	24 contact me if you have any questions. Thanks."
25	what you told her about why you could not	25 Do you recall speaking with Sonya Hall on

		Page 178	Page 180
1	December 11th, 2013?		
2 A	I recall talking to her, but the exact date, I 3 don't recall.		1 A I will. 2 (Government's Exhibit O was marked for 3 identification.)
4 Q	And do you recall receiving this e-mail?		4 Q Ms. Katz, I've handed you what's been marked as 5 Government's Exhibit O. Do you recognize this 6 document?
5 A	Yes.		7 A It looks like a lot of the documents I've seen, 8 without -- yes.
6 Q	And do you recall what forms were actually 7 attached to the e-mail?		9 Q Is this your handwriting on this form?
8 A	No, I don't recall that.		10 A Yes.
9 Q	Do you still have this e-mail from Ms. Hall?		11 Q And the form is dated 12/20/2013?
10 A	No.		12 A Yes.
11 Q	The reason I ask you is because another version 12 of this e-mail appears in your production of 13 documents. So are you saying you don't have a 14 physical copy or you don't have the e-mail?		13 Q And this document was provided to me in 14 discovery from your counsel. Do you recall if 15 you personally returned this document to the VA?
15 A	I don't have the e-mail on my records.		16 A I don't recall. I do -- looking at this date is 17 one that you had handed in here in the past. 18 That's what it looks like.
16 Q	If you flip the page of Exhibit N, the next page 17 is an actual letter and it was sent along with 18 the e-mail and it says, "Our office is in 19 receipt of your Reasonable Accommodation 20 Request. I have enclosed the Confirmation for 21 Reasonable Accommodation form, Medical 22 Documentation form, and Reassignment form. 23 Please complete the Confirmation and 24 Reassignment forms and return to my office. In 25 addition, please have your physician complete		19 (Government's Exhibit P was marked for 20 identification.)
			21 Q Ms. Ryan, I've handed you what's been marked as 22 Government's Exhibit P. This is a letter from 23 the VA to you dated February 13, 2014; do you 24 recognize this letter?
			25 A Yes.
		Page 179	Page 181
1	the medical documentation and answer the five 2 questions on form (a-e) and return to me at your 3 earliest." Did you ever have your doctor 4 complete the medical form?		1 Q Did you actually receive this letter?
5 A	I believe so.		2 A I can't recall.
6 Q	Do you have a copy of the completed form?		3 Q Were you living at the address at 71 Westvue 4 Drive in February 13, 2014?
7 A	I don't. That would be in the box with my 8 attorney.		5 A Yes.
9 Q	Did you return the actual medical certification 10 form from your physician?		6 Q According to this letter, it says, "You 7 submitted a request for a Reasonable 8 Accommodation due to a disability as defined by 9 the Americans with Disabilities Act. We have 10 attempted to contact you, but we have received 11 no response to date. Please contact the EEO 12 office." It gives you a number and an address. 13 Did you contact the EEO office following receipt 14 of this letter?
11 A	I returned everything that I was given, yes.		15 A I can't recall. I spoke with a Bruce Kafer. I 16 was directed by Andrea Freeman and I do have her 17 e-mail, but I was not allowed to contact her 18 anymore, so I would not have contacted her, no.
12 Q	Did you return it yourself or do you believe 13 your attorney returned it for you?		19 Q But you spoke with Mr. Kafer?
14 A	My attorney returned it.		20 A With Bruce Kafer, yes.
15 Q	And which physician would you have had fill out 16 this request?		21 (Government's Exhibit Q was marked for 22 identification.)
17 A	Dr. Holmer.		23 Q Ms. Katz, I've handed you what's been marked as 24 Defendant's Exhibit Q. It is a letter to you 25 from Bruce Kafer and it was sent to your address
18 Q	I will tell you that we have subpoenaed Dr. 19 Holmer's records and requested for everything 20 relating to you and this form was not in there, 21 so do you have a copy of this form by chance?		
22 A	I can't recall.		
23 Q	Can you just take a look and see if you have 24 this documentation yourself, the medical 25 certification form from Dr. Holmer?		

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1	from 71 Westvue Drive and it is dated March 6th, 2 2014.	1 "Your Reasonable Accommodation process will be 2 closed effective Tuesday, May 14th, due to 3 receiving no medical documentation"; do you see 4 that in the first paragraph?
3	Were you still residing at Westvue on 4 March 6th, 2014?	5 A Yes. 6 Q Do you recall receiving this letter? 7 A Yes.
8	And according to this letter, it says, "Thank 9 you for calling me back, Tuesday, March 4, 2014, 10 and responding to my inquiry about your 11 Reasonable Accommodation request." Do you 12 recall that conversation?	8 A I can't recall the conversation of that. 9 Q Did you follow up in any way on your reasonable 10 accommodation request after receiving this 11 letter?
13	A Yes.	12 A I always followed up with my attorney. I was 13 not allowed to have contact with the VA.
14	Q Had you had any other conversation with Bruce 15 prior to March 4th, 2014?	14 Q Are you aware of whether or not your attorney 15 followed up with the VA?
16	A I don't recall. I spoke to him on numerous 17 occasions. He was very helpful.	16 A I only can go with what she told me and she 17 stated she did.
18	Q According to this letter, it says, "You stated 19 to me on the phone you were on medical leave. 20 If this is the case, you may complete VA Form 21 0857A Written Confirmation of Request for 22 Accommodation and also please have your Medical 23 Provider complete VA Form 0857e Request for 24 Medical Documentation and fax them both to me." 25 Did you tell him that you had received this form	18 Q And did anything else happen after that? 19 A No. 20 Q Although you said you were told that you were to 21 have no personal contact with the VA, you just 22 said previously that you had conversations with 23 Bruce Kafer? 24 A I did. 25 Q So did you ever call him back to say, "Why are
	Page 183	Page 185
1	before?	1 you closing my case?"
2	A I don't recall that conversation.	2 A I don't recall that conversation.
3	Q So in response to his request for the medical 4 documentation, did you return it?	3 Q So what actions do you believe that the VA took 4 in retaliation for you exercising your rights 5 under Title 7 or under the Rehabilitation Act 6 against you?
5	A I did.	7 MS. PIZZINO: Objection. Calls 8 for a legal conclusion.
6	Q Did you personally return it or you believe your 7 attorney returned it?	9 A I'd like you to rephrase that.
8	A My attorney did. I was not allowed to have any 9 contact with the VA, anything with the EEO per 10 Andrea Freeman and I have an e-mail per that 11 conversation.	10 Q What actions do you believe that the VA took in 11 retaliation for you exercising your rights under 12 Title Seven of the Rehabilitation Act?
12	Q Do you have any confirmation that your attorney 13 returned all the forms that were requested?	13 MS. PIZZINO: Same objection.
14	A I do not.	14 A I asked for a transfer and I never got it.
15	(Government's Exhibit R was marked for 16 identification.)	15 Q Anything else?
17	Q I've handed you Government's Exhibit R is a 18 letter addressed to you at the 71 Westvue Drive 19 address dated May 13th, 2014. Did you receive 20 this letter?	16 MS. PIZZINO: Same objection.
21	A I don't recall when I did.	17 A They kept him employed with pay.
22	Q The letter is also -- there's a cc to your then 23 counsel, Pamela Kurt?	18 Q And where did you get that information from?
24	A Correct.	19 A The prosecutor.
25	Q According to this letter, it advised you that	20 Q And the prosecutor works for Cuyahoga County? 21 A Yes. 22 Q You're aware that you made an allegation of 23 sexual harassment against Mr. Garrett; correct? 24 A Yes. 25 Q And you're aware that the VA has an obligation

		Page 186	Page 188
1	to investigate it before taking action; correct?	1	you?
2 A	Yes.	2 A	2014.
3 Q	And how long do you allege Mr. Garrett was allowed to remain employed and be paid?	3 Q	When in 2014?
4		4 A	I can't recall.
5 A	He got interviewed and he admitted to everything	5 Q	There was a period of time when you were off on
6	that I complained about. So with that being	6	Workers' Compensation and at some point you were
7	said, they should not have transferred him with	7	seen by an Erika DeLong on behalf of the
8	an admission.	8	Workers' Compensation Department; is that
9		9	correct?
10	At least, I felt that they should put him	10 A	For one day.
11	on administrative leave with or without pay, but	11 Q	You also were still seeing your therapist at the
12	not be put into an area where he's going to be	12	Catholic Charities; correct?
13	working with other people even with his	13 A	Correct.
14 Q	admission. He admitted what he did to me.	14 Q	And are you aware that in January 2014 that your
15		15	therapist at Catholic Charities sent a form to
16	Are you aware that when Mr. Garrett was charged	16	the Attorney General's Office stating that you
17	formally by Cuyahoga County, that he was placed	17	could return to work without any restrictions?
18 Q	on unpaid leave?	18 A	I would need to see that.
19		19 Q	Were you aware that Erika DeLong concluded that
20	In July.	20	you could return to work without any
21	So why do you believe that the fact that he was	21	restrictions in April of 2014?
22	allowed to remain employed while the	22 A	Could return to work, but they told me I had to
23	investigation was pending was discriminatory	23	return to that floor.
24	against you or was a reprisal for your EEO	24 Q	But Erika DeLong's opinion was that you could
25	activity?	25	return to work on that floor?
		Page 187	Page 189
1	admitted to the sexual harassment that was	1	MS. PIZZINO: Objection.
2	caused by him.	2	Mischaracterization.
3 Q	Okay. Any other reasons that you believe that	3 A	She only met with me one time. I don't
4	the VA's actions were discriminatory against	4	understand how could she possibly come to that
5	you?	5	conclusion.
6	MS. PIZZINO: Objection. Calls	6 Q	You said she only met with you one time?
7	for a legal conclusion.	7 A	Yes.
8 Q	You can answer.	8 Q	She's an expert in psychiatry; are you aware of
9	MS. PIZZINO: Asked and	9	that?
10	answered.	10 A	My doctor's an expert too.
11 Q	Any other reasons?	11 Q	Your doctor is an expert in psychiatry?
12 A	No.	12 A	No, she's an expert in medical.
13 Q	Are you alleging that they took any other	13	(Government's Exhibit S was marked for
14	employment actions against you as a result of	14	identification.)
15	you filing the EEO?	15 Q	Okay. I'm handing you what's been marked as
16	MS. PIZZINO: Objection. Calls	16	Government's Exhibit S. The first page of the
17	for a legal conclusion.	17	exhibit which is Bates-stamped "Removal 1105, it
18 Q	You can answer.	18	is a letter addressed to you August 1st, 2014.
19 A	They fired me.	19	Have you seen this letter before?
20 Q	You believe they fired you; correct?	20 A	Yes.
21 A	I know they fired me.	21 Q	Did you receive this letter?
22 Q	Okay. You were off on Workers' Compensation for	22 A	Yes.
23	a period of time; is that correct?	23 Q	And in this letter, the VA is offering you a
24 A	Correct.	24	position; correct?
25 Q	When do you believe that the VA actually fired	25 A	Correct.

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1 Q	And the position is on a different floor; correct?	1 heck is going on?"
2 A	It's on the Wade Park campus, yes.	2 A I believe I answered that. I called my
3 Q	But it's on a different floor; correct?	3 attorney.
4 A	Correct.	4 Q After September 22nd, 2014?
5 Q	And it asks you to contact the VA. Did you contact them to follow up with this?	5 A Yes, I did.
6 A	I contacted my attorney.	6 Q And after you called your attorney, what was the result?
7 Q	So you didn't contact the VA?	7 A I answered that and I stated that she would follow-up.
8 A	No, I contacted my attorney.	8 Q Okay. Well, I'm talking about specifically to this letter, September 22nd, 2014; does that change your previous response?
9 Q	Did your attorney contact the VA in response to this letter?	9 A No.
10 A	She told me she did.	10 Q So you believe you contacted your attorney after September 22nd, 2014, in response to this letter?
11 Q	And what was the outcome of that contact?	11 A Yes.
12 A	She was going to make -- she was going to talk to them and follow up.	12 Q Did you hear anything back as to what was the VA's position?
13 Q	And to the best of your knowledge, did she follow up?	13 A No.
14 A	The best of my knowledge, yes.	14 Q So as you sit here today, do you know whether or not your attorney actually followed up with the VA after this September 22nd, 2014 letter?
15 Q	What was that follow-up going to consist of?	15 A I don't know. I haven't spoken to her.
16 A	She was going to let them know that my doctor stated to be off of that unit and off of that campus.	16 Q And then the very next page which is
17 Q	Now you state that your doctor said for you to be off of that unit and off of that campus. I	
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1	will represent to you that when we took Dr. Holmer's deposition, there was some letters that said off of the unit and some that said to a different location.	1 Bates-stamped 1082 is another letter addressed to you on October 21st, 2014, and it was sent to your Westvue address and it says "Proposed Removal." Did you see this letter?
2	Were you told specifically that you could not go back to work at the VA Wade Park campus for medical reasons?	2 A Yes.
3 A	From my doctor, yes.	3 Q And what did you do in response to the October 21st, 2014 letter?
4 Q	From Dr. Holmer?	4 A Called my attorney.
5 A	Yes.	5 Q And do you know what, if any, actions your attorney took?
6 Q	Do you have any proof, correspondence, anything that suggests that your attorney followed up with the VA following this August 1st, 2014 letter?	6 A She would follow up.
7 A	Just her word.	7 Q And did you inquire as to what her follow-up consisted of?
8 Q	And then the very next -- I'm sorry, the page that is Bates-stamped 1098.	8 A I trusted my attorney, so I trusted that she would do what needed to be done, so I didn't ask.
9 A	MS. PIZZINO: Fourth page in.	9 Q So you didn't ask her what follow-up actions she actually took?
10 Q	This is a letter that was sent to you from the VA. It's dated September 22nd, 2014, and it is sent to your address on Westvue Drive; did you receive this letter?	10 A Oh, I believe she told me that she has to file appeals. I don't know what that means. That I just know that there was appeals that had to be filed.
11 A	Yes, I did.	11 Q Do you know if she actually filed those appeals?
12 Q	And after you received this letter, did you call the VA or call your attorney and ask "What the	12 A I don't know.
13 Q		13 Q If you would turn to the page that is

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1	Bates-stamped 1078 of Exhibit S please. This is	1 A Yes.
2	a letter to you dated November 17, 2014, and it	2 Q The third box down, it asks, "Is or was patient
3	was sent to the Monroe Falls Avenue address.	3 unable to perform any type of gainful employment
4	Did you receive this letter?	4 as a direct result of the crime?" And Ms.
5 A	I also got it at the Westvue and this is because	5 Hively checks yes and it says, "Date unable to
6	this is a condo that was also in my name. So I	6 work, March 26, 2013 to be determined"; did
7	got one sent there and Westvue.	7 you agree with her conclusion?
8 Q	So you did receive a copy of this letter?	8 A Was this Wanda?
9 A	Yes, I did.	9 Q Yes, it's signed by Wanda Hively.
10 Q	When you received a copy of this letter, did you	10 A Yes, I wouldn't have had any reason to dispute
11	call anyone, the VA, your attorney to say, "Hey,	11 her.
12	what are you all doing? I'm trying to keep my	12 (Government's Exhibit U was marked for
13	job"?	13 identification.)
14 A	Again, I was not allowed to contact the VA and	14 Q Ms. Katz, I've handed you what's been marked as
15	that was at the request of the VA and the	15 Government's Exhibit U. This is a report that
16	request of my attorney. So all my transactions	16 was submitted on your behalf by Dr. Holmer.
17	and communications were to my attorney.	17 It's dated June 26, 2013?
18 Q	And what did your attorney do in response, if	18 A Uh-huh.
19	you know?	19 Q Have you seen this document before?
20 A	That she's working on it with the appeals.	20 A I believe so, yes.
21 Q	And did you ever receive any documents entitled	21 Q Actually, I think this is a mixture of
22	"Appeals"?	22 documents.
23 A	No, I did not.	23 MS. PIZZINO: It looks to be.
24 Q	Did you ever follow up with your counsel as to	24 MS. BACCHUS: Yeah, that's the
25	what was the resolution of her appeals or her	25 wrong second page.
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1	contact with the VA regarding the removal?	1 A Yeah, this is Wanda down here.
2 A	Yes.	2 Q Yeah, I apologize. That's two I just removed
3 Q	And what did you learn?	3 from Exhibit U. We'll destroy those. I
4 A	That she's working on it.	4 probably have it in here.
5	(Government's Exhibit T was marked for	5 (Government's Exhibit U was remarked
6	identification.)	6 for identification.)
7 Q	Ms. Katz, I've handed you what's been marked as	7 I've handed you what's been marked now as
8	Government's Exhibit T. This is a document that	8 Defendant's Exhibit U and hopefully, we all have
9	was submitted by Catholic Charities entitled	9 the right pages now. Have you seen this
10	"Mental Health Report" to the Attorney General's	10 document before?
11	Office Victim of Crimes. Have you seen this	11 A Yes, if it was a little bit bigger.
12	report before?	12 Q Yeah, I apologize. This is a Medical
13 A	Yes, I have.	13 Information Report to the Ohio Attorney
14 Q	I want to direct your attention to page two of	14 General's Office Victim of Crime and it's
15	this report. I'm sorry, before we go there,	15 completed by Dr. Holmer; is that correct?
16	page one, there's a stamp on it that says	16 A Correct.
17	received July 13, 2013 [sic] by Crime Victim	17 Q And if you turn to page two under the section
18	Services.	18 where it says, "Is the patient injured or
19	Do you have any reason to dispute that's	19 emotionally distressed to the extent that they
20	the day this document was submitted?	20 were unable to work," she checks the box yes and
21 A	No.	21 says "Date unable to work from March 28, 2013"
22 Q	I want to direct your attention to page two	22 and there's no end date at that point in time;
23	please. And this is in relationship to Victims	23 do you see that?
24	of Crime claim number V1341713, the claim number	24 A Yes.
25	is listed on the top; do you see that?	25 Q And then under the next box, "Is patient still

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1	unable to work" and she checks the box yes. "If 2 yes, what is the anticipated date the patient 3 can return to full-time work," and she wrote in 4 "September 2nd, 2013." Did you agree with that 5 conclusion?	1 A I told her I was not going to return to work at 2 the main campus. 3 Q So you would dispute her statement that you said 4 you were not going to return to work at the VA? 5 A Yes, I would dispute that. 6 (Government's Exhibit W was marked for 7 identification.) 8 Q Okay. I've handed you what's been marked as 9 Government's Exhibit V. And this is a Mental 10 Health Report that appears to have been 11 submitted to the Attorney General's Office by 12 your mental health counselor, Diane 13 Setlak-Micheller. 14 A When Wanda retired, that was the person who was 15 in her spot. 16 Q And this is dated January 28th, 2014. Have you 17 seen this document before? 18 A Yes. 19 Q According to page two, it asks, "Is the patient 20 unable to perform any type of gainful employment 21 as a direct result of the crime," and it looks 22 like she originally checked yes and then she 23 changed it to no and circled it; do you see 24 that? 25	13 Then after that is another form that she 14 has completed and submitted to the Department of 15 Labor and then the last two pages appear to be 16 her intake form that was completed by you. Have 17 you seen these documents before? 18 A No. 19 Q You've never seen the report? 20 A I've never seen the report. This is the first 21 time. 22 Q Okay. And what about the form that is attached 23 Bates-stamped 1302? 24 A I have not seen this. 25 MS. PIZZINO: Renee, maybe this
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1	A Uh-huh. 2 Q You have to say yes or no. 3 A Oh, yes, I see it. 4 Q The next question is: "Is patient still unable 5 to work" and she says no. "If yes, what is the 6 anticipated date the patient can return to 7 full-time work" and she just says "Anytime." 8 Did you agree with her conclusion? 9 A Yes, because this was dated 2014, so yes. 10 Q At what point did you believe that you would not 11 be able to return to the VA whether voluntary or 12 involuntary? 13 A I always felt and stood ground to not return to 14 the main campus VA. I always wanted to be off 15 campus. 16 Q And do you recall having a conversation with 17 your therapist saying that you did not intend to 18 return to work at the VA? 19 A To the VA main campus, yes. I always stood that 20 ground. 21 Q Did you specify main campus? 22 A Yes. 23 Q And when you met with Erika DeLong, do you 24 recall telling her that you had no intention of 25 returning to work at the VA?	1 a good time to take a break. I have to use the 2 rest room. 3 MS. BACCHUS: Sure. 4 (A short break was taken.) 5 MS. BACCHUS: Okay. We're 6 going to go back on the record. We've been 7 waiting on Ms. Lola. 8 By Ms. Bacchus: 9 Q We're talking about the Defendant's Exhibit W. I 10 know you said you didn't see the first set of 11 pages, but the last two, are these pages 12 completed by you? 13 A Oh, these two here? 14 Q Yes. 15 A Yes, this must have been health information, 16 yes, this is. 17 Q Okay. And you completed this for Dr. DeLong? 18 A Yes. 19 Q And I want you to take a look at the last page. 20 Under "Known Medical Problems," there's a 21 question that asks "Previous psychiatric care" 22 and you checked no. 23 A Okay. 24 Q Why did you check no; had you not had any 25 previous psychiatric care?	

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1 A	I haven't. I mean, depression, but not psychiatric care.	1 Q The documents asks, "If psychiatric medications, give dosage as well" and you list medications and dosages; correct?
2 Q	And how do you define psychiatric care?	2 MS. PIZZINO: Objection.
3 A	How do I define psychiatric care?	3 Mischaracterization to the question.
4 Q	Yes.	4 MS. BACCHUS: Your objection is noted.
5 A	I don't think I can answer that.	5 It says list your medications. "If psychiatric medications, give dosage," and I don't think I did that.
6 Q	You're a nurse; correct?	6 You gave dosages though; correct?
7 A	I'm a nurse but...	7 No, I didn't give dosages
8 Q	Did you have any psych classes?	8 There's Wellbutrin at 150 milligrams; correct?
9 A	Yes, I had psych classes.	9 But Wellbutrin can be used for smoking cessation?
10 Q	When the question asks have you had previous psychiatric care and you checked no, had you had prior mental health treatment?	10 Were you using it for a smoking cessation?
11 A	I've always gone to my doctor. Clarify that more, because I don't --	11 No,
12 Q	Have a problem.	12 You don't smoke; do you?
13 A	Psychiatric care, no. No psychiatric care, no.	13 No.
14 Q	So you don't classify mental health treatment or counseling as psychiatric care?	14 Then it says, "Adderall, 20 milligrams, severe anxiety"; correct?
15 A	No, I do not.	15 No, Adderall, 20 milligrams.
16 Q	And you don't classify the fact that you had been treated for depression and anxiety prior to March 27th, 2013, as psychiatric care?	16 So that was separate?
17 A	You're asking me personally?	17 The severe anxiety is for Zoloft.
18 Q	Yes.	18 Then you list "Zoloft, one and a half tablets";
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1 A	No.	1 correct?
2 Q	But under psychiatric medication, you list, "Wellbutrin, Adderall, Zoloft, Ativan"; correct?	2 Correct.
3 A	But I'm not a doctor, so I can't really speculate on that diagnosis of medication. With a nurse background, I can't diagnosis.	3 You list "Ativan and, I assume, prn for sleep and nightmares, ADHD"; correct?
4 Q	I agree that you cannot diagnosis, but you are aware of what type of medication qualifies as psychiatric medication?	4 Correct.
5 A	MS. PIZZINO: Objection.	5 I want to go back to your complaint for a minute. You gave sworn testimony to the EEO investigator; is that correct?
6 Q	MS. BACCHUS: Objection noted.	6 Show me what you're referring to.
7 Q	Are you aware of what type of medication qualifies as psychiatric medication?	7 I sure will.
8 A	MS. PIZZINO: Objection.	8 (Government's Exhibits X and Y were marked for identification.)
9 Q	You can answer.	9 Handing you what's been marked Government's Exhibit X and Y, do you recognize these documents?
10 A	Those can be classified under more than just psychiatric medication. They could be used for many things. Wellbutrin can be used for smoking.	10 Yes.
11 Q	But, obviously, you assumed that it was part of the psychiatric medications, because you listed it; correct?	11 Okay. The first one is an affidavit dated January 28th, 2014; is that correct?
12 A	MS. PIZZINO: Objection. The document doesn't say that. That's a mischaracterization.	12 Yes.
13 Q		13 And then Exhibit Y is an affidavit dated February 27th, 2014; is that correct?
14 A		14 Yes.
15 Q		15 And this was your sworn testimony that you gave to the investigator appointed to investigate your ORM complaint?

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1 A	Regina Watts, yes.	1 actually received?
2 Q	And in your sworn statement, and I don't want to rehash it, I assume that you told the truth during your sworn statements?	2 A Yes.
3		3 Q And this Report of Contact is dated October 25th, 2012, and it appears to be typed by Lisa Herman or, at least, prepared by Lisa Herman?
4		4 A Yes.
5 A	Yes.	5 Q And the Report of Contact documents an interaction that happened on October 25, 2012; is that correct?
6 Q	And one of the things that you said in your sworn statement was that you believed you had been retaliated against, because you were sent a Report of Contact dated October 2012, do you recall that?	6 A Right, but I didn't get it to my home until May.
7		7 Q But the actual incident that's described in the Report of Contact documents an incident that happened October 25th, 2012?
8		8 A Correct, but I wasn't reprimanded at that time for this.
9		9 Q And as a result of receiving the Report of Contact, were you reprimanded in May?
10 A	I believe I was being retaliated, because I went outside of the VA to report the crime.	10 A I was not reprimanded. I was just sent this via FedEx to my home.
11 Q	Okay.	11 Q Do you have any reason to believe that this Report of Contact was not created in October of 2012?
12 A	And I was told that I should have stayed within the VA, because they have their own police department and I should not have gone outside of the VA to report it.	12 A I don't know when it was created.
13 Q	And you believe that you received the Report of Contact as retaliation for reporting the --	13 Q And you were not reprimanded in October of 2012?
14 Q		14 A No, I was not.
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1 A	I believe for reporting what I did outside of the VA, yes, was one of those.	1 Q And then according to Government's Exhibit AA --
2		2 A Uh-huh.
3 Q	As a result of receiving the Report of Contact, were you ever disciplined?	3 Q -- this is a leave restriction letter written by
4		4 A Lisa Herman on October 26, 2012?
5 A	I wasn't. I was on leave at that time.	5 A Yes, this was given to all staff on the floor.
6 Q	So you never received any type of discipline for the Report of Contact?	6 Q You did receive the leave restriction letter?
7		7 A Yes.
8 A	No, I was only told by Beth Noelker that it could have been handled in-house.	8 Q Can you take out Exhibit O. It's that big thick ring.
9		9 Q MS. PIZZINO: This is L.
10	(Government's Exhibits Z and AA were marked for identification.)	10 Q Okay. We're getting late in the day. I must be getting tired. Sorry, Exhibit H. It's H and then it's Plaintiff's Exhibit D that page that says Exhibit D outside the Exhibit H. Do you recall signing this document?
11 Q	Okay. Ms. Katz, I've just handed you what's been marked as Exhibit Z and double A. Do you recognize these two documents?	11 A Yes, that's my signature.
12 A	Yes, I do.	12 Q And this was a medical release that was given to the investigator for ORM; is that correct?
13 Q	And Exhibit Z is the Report of Contact that you were complaining about receiving?	13 A Correct.
14 A	I don't believe that's how I answered it in this, no.	14 Q Did you ever provide a copy of this release to the VA?
15 Q	Then let's back up. Maybe I misunderstood your testimony. Did you believe that the VA was taking some type of retaliatory action against you by sending you this Report of Contact?	15 A I wasn't allowed to communicate with them at that time.
16 A	Yes.	16 Q So that would be no?
17 Q	And is this the Report of Contact that you	17 A Yeah.

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1 Q	And going back to the other, so we'll go to Exhibit Y, and this is an affidavit that you gave to the ORM investigator, Regina Watts?	1 litigation, I guess, is my question?
2 A	Yes.	2 A I don't know. I can't answer that.
3 Q	And you've seen this document before?	3 Q But you did receive this document at your home?
4 A	Yes.	4 A Yes.
5 Q	And you had a chance to review it after it was typed up?	5 Q If you turn to the very last couple of pages, 6 there's two pages. It's Bates-stamped 50 and 51 7 and this is dated May 24th, 2013, as being 8 received. It is the "Agreement for Mediation 9 and Confidentiality Agreement." Does your 10 signature appear on the second page to this? 11 A Yes.
10 Q	Thank you. And presumably you told the truth during that statement?	12 (Government's Exhibit DD was marked for 13 identification.)
11 A	Yes.	14 Q Ms. Katz, I've handed you what's been marked as 15 Defendant's Exhibit DD. It is a letter to you 16 from the Office of Resolution Management August 17 19, 2013, and it's a "Notice of Receipt of the 18 Discrimination Complaint" for your EEO case? 19 A Correction, it was sent to my attorney.
13 Q	That's all I wanted to ask you about.	20 Q I'm sorry, to your attorney, you're correct.
14	(Government's Exhibit BB was marked for 15 identification.)	21 Have you seen this document before?
16 Q	Ms. Katz, I've handed you what has been marked as Government's Exhibit BB, have you seen this 17 document before?	22 A I can't recall.
18 A	Yes, I have.	23 Q Well, on the second page, it shows that it was 24 cc'd to you at your address?
19 Q	And is this your application for Workers' Compensation?	25 A Right, but I still can't recall.
20 A	I thought there was more than this.	
21 Q	There may have been more submissions, but this 22 appears to be the actual application part of it.	
23 A	Did you sign this document?	
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1 A	Yes.	1 Q Were you still residing at the Westvue 2 address or receiving mail there again?
2 Q	And I'm going to need you to redact your Social 3 Security off of that. Just turn it to the side.	3 A Yes.
4	I'll get to it when we're done rather than 5 stopping now.	4 (Government's Exhibit EE was marked for 5 identification.)
6 A	You don't want me to scratch it off?	6 Q Ms. Katz, I've handed you Government's Exhibit 7 EE. It is a letter from the Office of 8 Resolution Management dated October 31st, 2013. 9 It's addressed to your counsel, Pamela Kurt and 10 it is also cc'd to you at your Westvue address 11 and it's dated October 31st, 2013. It's 12 entitled, "Acceptance of the Mixed Case EEO 13 Complaint of Annette Ryan." Did you receive 14 this document?
7 Q	No, because some people may still see it. Just 8 turn it sideways on the stack, so I make sure 9 that it gets redacted there. I just want to go 10 through with you a couple of documents before we 11 go on to the next set of questions.	15 A I can't recall that I did.
12	(Government's Exhibit CC was marked for 13 identification.)	16 Q Were you still receiving mail at the Westvue 17 address around the time of October 31st, 2013?
14 Q	Ms. Katz, I've handed what's been marked as 15 Government's Exhibit double C. It appears to be 16 a correspondence to you dated May 22, 2013, from 17 the Office of Resolution Management Department 18 of Veterans Affairs. Have you seen this 19 document before?	18 A Yes, I was.
20 A	Yes.	19 (Government's Exhibit FF was marked for 20 identification.)
21 Q	And did you receive this document on or about 22 May 22nd, 2013?	21 Q Ms. Katz, I've handed you what's been marked as 22 Government's Exhibit FF. It's several pages 23 that were returned to the Office of Resolution 24 Management in your EEO case and your signature 25 appears on several of these pages and I'm just
23 A	I can't recall the exact date.	
24 Q	Did you receive it contemporaneous like May or 25 do you recall seeing it like through the	

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1	wondering if you've seen this document before?	1 this letter was written in response to your
2 A	Yes.	2 request for a letter to the Attorney General
3	(Government's Exhibit GG was marked for	3 that we discussed in Exhibit HH?
4	identification.)	4 A It doesn't jog my memory, no.
5 Q	Ms. Katz, I've handed you what has been marked	5 Q Did you receive any other letter to your
6	as Government's Exhibit double G. This is a	6 knowledge written by Dr. Holmer during the week
7	letter that was provided to your counsel and it	7 that followed January 21st, 2014, with the
8	informs her that DSZ, Incorporated has been	8 Attorney General's Office?
9	assigned to investigate your case. And he says	9 A Not that I can recall, no.
10	the investigator will be contacting you. Did	10 (Government's Exhibit JJ was marked for
11	you see this letter before?	11 identification.)
12 A	I don't recall.	12 Q Ms. Katz, I've handed you what's been marked as
13 Q	Did you realize that the investigator worked for	13 Government's Exhibit double J. It appears to be
14	an outside corporation, the investigator for	14 a handwritten letter. Is this your handwriting
15	your EEO complaint?	15 on the first page?
16 A	No, I did not.	16 A Yes.
17	(Government's Exhibit HH was marked for	17 Q It states, "I need this paper filled out to
18	identification.)	18 extend my medical leave. The VA is refusing to
19 Q	Ms. Katz, I've handed you what's been marked as	19 reassigned me to another location. It's still
20	Defendant's Exhibit HH. This is a document that	20 being fought through my attorney. My counselor,
21	we received from your doctor, Dr. Holmer.	21 Wanda, does not want me to return to the same
22 A	Uh-huh.	22 unit due to PTSD and my anxiety and crying and
23 Q	And it is dated January 21st, 2014 [sic] and it	23 also because the attacker is still permitted to
24	appears that the call was answered at her office	24 come on the unit whenever he wants. My attorney
25	by a Sarah Ferrise and under the message it	25 has been working with the VA to have me
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1	states, "Needs letter to go to Attorney General	1 reassigned, but at this point the nurse manager
2	about the reason she has been off work since	2 and administration refuse to reassign me. I
3	4/1/2013, needs to be faxed within the next	3 wrote September 1st down in hopes that I will be
4	week, needs to state she's been off because of	4 reassigned"; did I read that correctly?
5	PTSD due to sexual assault, sleeping issues.	5 A Yes.
6	Needs to state that she can't go back to work	6 Q Now you say that they are refusing to reassign
7	because of that. The state won't pay her back	7 you. Who specifically refused to reassign you?
8	pay, letter needs to be faxed to attention of	8 A Beth Noelker.
9	Debbie Miller"; do you recall asking for that	9 Q When did she refuse to reassign you?
10	letter?	10 A After I would not sign off on the lawsuit.
11 A	Yes.	11 Q This letter that you wrote to Dr. Holmer is
12	MS. BACCHUS: I'm going to mark	12 dated for June 11, 2013; do you see that?
13	this as I. As a matter of fact, I know this	13 A Uh-huh.
14	letter was actually an exhibit in here before,	14 Q You have to say yes.
15	but rather than spending the time to dig it up	15 A Yes.
16	again, we're going mark it as II.	16 Q And you said that the mediation happened in
17	(Government's Exhibit II was marked for	17 September; correct?
18	identification.)	18 A I don't know when the mediation happened.
19 Q	This was a letter that was drafted by Dr. Holmer	19 Q Well, if I represent to you that the records
20	February 4, 2014, and there's a faxed notation	20 indicated it happened in September, as of June
21	on the bottom that just says faxed 2/4/2014.	21 11, 2013, who had refused to reassign you?
22	Did you receive this document by fax?	22 A It's always been Beth Noelker.
23 A	I don't believe it went to me. No, I don't have	23 Q Was that prior to June 11th, 2013?
24	a fax machine.	24 A I can't recall.
25 Q	Does this jog your memory as to whether or not	25 Q You also state, "He's allowed to come up to the

	Page 218	Page 220
1	unit any time he wants," where did you get that	1 Q Anything else?
2	information from?	2 A There was Provant.
3 A	Because Roseann McDevitt was still on that unit	3 Q Provant?
4	and she was working one night and he came up to	4 A Provant, they were all independent companies
5	visit other patients.	5 that did flu shots.
6 Q	So that was once. Are you aware --	6 Q And do you have any records for working for
7 A	No, that was more than once.	7 Provant?
8 Q	When you found out that he was still coming up	8 A I have my tax information.
9	to the unit, did you report that to anyone?	9 Q Was that on an as-needed basis or was that
10 A	Yes, I did.	10 full-time employment?
11 Q	Who did you report it to?	11 A As-needed basis.
12 A	I reported it to Beth and I reported it to Lisa.	12 Q Did you seek out any type of full-time
13 Q	What were you told?	13 employment?
14 A	I was told that he is not to come up to the unit	14 A I tried to, yes.
15	and if he does, he has to get a police escort.	15 Q Where are you seeking employment?
16 Q	Anything else?	16 A What dates are you looking at?
17 A	No.	17 Q I'm looking at starting in October of 2013 going
18 Q	Were you told that he is a veteran and he's	18 forward.
19	allowed to seek medical treatment at the VA?	19 A Heritage of Hudson.
20 A	Yes.	20 Q Where else?
21 Q	That included any of the CBOCs as well?	21 A I did a lot of, like I said, independent work.
22 A	Yes.	22 So there could have been Provant, a lot of
23 Q	On these times when he would come up to the unit	23 nursing companies. There was Total Wellness,
24	and Ms. McDevitt was working, did she report any	24 U.S. Wellness, there was two different ones,
25	negative interactions with Mr. Garrett?	25 Provant, and then the full time was Heritage of
	Page 219	Page 221
1	MS. PIZZINO: Objection.	1 Hudson.
2	Foundation.	2 Q Did you keep any type of log or records of your
3 A	I can't answer that. I don't know.	3 job search starting in say October 2013?
4 Q	I'm sorry, did she report any negative	4 A No.
5	interactions with Mr. Garrett to you?	5 Q You accepted a position at Heritage of Hudson;
6 A	She reported it to -- I don't know what you mean	6 correct?
7	by the negative --	7 A Correct.
8 Q	Did -- I'm sorry.	8 Q I'm sorry, could you --
9 A	She did report it to management, but then he	9 MS. PIZZINO: Oh, you just sent
10	came back to the floor. And told me, but not	10 this.
11	any interactions as far as her and him.	11 (Government's Exhibits KK and LL were
12 Q	That's what I'm asking. Did she say to you that	12 marked for identification.)
13	he made any lewd comments or tried to touch her	13 Q All right. First, I want to ask you about
14	or anything like that?	14 Government's Exhibit LL, have you seen this
15 A	No.	15 document before?
16 Q	At some point in the fall of 2013, do you recall	16 A LL, this one?
17	having a conversation with Wanda Hively that you	17 Q Have you seen this document here before?
18	may need to seek alternative employment while	18 A Yes.
19	this EEO process is completed?	19 Q Was this document completed by you?
20 A	Yes.	20 A Yes, it was.
21 Q	And what did you do to seek alternative	21 Q And according to the last page -- you signed
22	employment in the fall of 2013?	22 this document as a person completing the
23 A	I did flu clinics.	23 questionnaire on April 17th, 2013?
24 Q	Is that U.S. Wellness?	24 A Uh-huh, yes.
25 A	Yes.	25 Q I'm going to direct you now to Exhibit KK. I

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1	will represent to you that these are the	1 was in there?
2	documents or a portion of the documents we	2 A I asked Beth Noelker if I could have a copy of
3	received from a subpoena issued to Catholic	3 my personnel file and she said I have to ask my
4	Charities Services and they are the individual	4 attorney to get that.
5	progress notes mental health assessment for your	5 Q Were you aware that your personnel file was
6	treatment April 17, 2013?	6 available to you on-line?
7 A	Correct.	7 A No, I wasn't aware of that.
8 Q	I want to direct your attention to the page that	8 Q Did you request a copy of your personnel file?
9	is Bates-stamped page 106 at the bottom. I	9 A Yes, I did.
10	believe it's like six pages in. It is a note	10 Q And was that in your personnel file, the Report
11	May 3rd, 2013; do you see that?	11 of Contact?
12 A	Uh-huh, yes, I do.	12 A I never received my personnel file.
13 Q	And the last sentence under "Client's Response	13 Q So you don't know if it was in your personnel
14	to Intervention" states "Annette recently spoke	14 file?
15	with her attorney who plans on contacting the VA	15 A I don't know, but that was my boss and that was
16	about this issue and following protocol with	16 a negative towards me, so I wanted that out of
17	their sexual harassment policy to reassign a	17 my file.
18	worker who has experienced sexual harassment."	18 Q But you don't know that it was in the file to be
19	Was that information that you provided to	19 taken out of the file?
20	Ms. Hively?	20 A No, I don't know that. I also don't know if
21 A	Yes.	21 it's not.
22 Q	What policy were you referring to?	22 Q I want to direct your attention to Bates-stamp
23 A	I can't recall that.	23 page 102. It states under "Client Responses to
24 Q	And I believe I asked you previously are you	24 Intervention" and this was dated June 12, 2013,
25	aware of any policy of the VA that requires the	25 "A," I'm assuming means Annette, "described the
	Page 223	Page 225
1	VA to transfer the victim of a sexual assault	1 process of her perpetrator's grooming behaviors
2	and you said no. Am I recalling that correctly?	2 toward her before he began his sexually abusive
3 A	Yes.	3 behaviors toward her. Annette described her
4 Q	Turn to the next page which is the Bates-stamp	4 style of avoiding conflict and confrontation and
5	page 105 and it is dated May 23rd, 2013, and	5 how she recently challenged herself and was
6	under "Client Responses to Intervention" it	6 assertive by making a p/c to the Union about
7	states, "Annette was able to take a short	7 info she recently received about her
8	vacation with her children to come home to a	8 perpetrator." Do you know what p/c stands for?
9	bogus "write up" from the VA." When you say	9 A No, I do not.
10	"write up," are you talking about the Report of	10 Q Did you make some kind of request to the Union
11	Contact that we discussed?	11 about MD Garrett?
12 A	Yes.	12 A I don't know what that's referring to except
13 Q	When you say "write up," did you consider that	13 that I went to the Union and reported him. I
14	to be disciplinary?	14 don't know what that means.
15 A	It is a disciplinary.	15 Q And then on the next page which is dated June
16 Q	It is?	16 19, 2013, it states "Client Responses to
17 A	Uh-huh.	17 Intervention" and the second sentence states
18 Q	What discipline were you issued?	18 "Annette has taken care of her extended FMLA
19 A	I wasn't issued any, but that's in my personnel	19 leave, is keeping in contact with a couple of
20	record. That is disciplinary. Anything with a	20 close co-workers and a previous supervisor at
21	Report of Contact is a disciplinary action.	21 another job." Who were the co-workers you were
22 Q	So you believe that at any time a Report of	22 keeping in contact with during this time?
23	Contact is made, it is disciplinary?	23 A Doug Jenison, and Roseann McDevitt.
24 A	I believe that was a disciplinary action, yes.	24 Q Then under "Progress Goals," it has a statement,
25 Q	Did you check your personnel file to see if it	25 "I'm starting to feel better now being away from

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1	work and safer due to not being there," is that	1	Do you believe it was in 2013?
2	information that you gave to Ms. Hively?	2	Yes.
3	A Yes, it is.	3	And how many field placements did you perform at
4	Q And if you would turn to the next page and that	4	the VA?
5	is a note from July 29th, 2013 [sic] and under	5	One.
6	"Significant Life Events" it says, "Annette	6	That was like a student nursing clinical
7	received a C in the last History class she took	7	rotation?
8	due to impaired ability to focus and feel	8	Yes.
9	motivated. The C grade is rare and	9	Do you recall what unit that was on?
10	disappointing for Annette. She has two classes	10	No, I don't.
11	in the fall, one in the spring and one in the	11	Was it a medical/surgical rotation?
12	fall of 2014 that she has to repeat due to	12	No, Med-surge was done. It was a higher -- it
13	dropping the class last year when she was going	13	was my last year.
14	through the sexual harassment and assaults."	14	There's records that indicate that you did a
15	When you said last year, did you drop a	15	Med-surge rotation in the fall of 2013?
16	class during 2012 or were you referring to?	16	Well, there's a Med-surge II so it's not
17	A The last semester.	17	Med-surge. It would be a graduate. I don't
18	Q So that would have been the fall semester of	18	know if it was called Med-surge or it was called
19	2012?	19	something else.
20	A Fall I believe so, yes, yes.	20	So the student nursing that you recalled doing
21	Q Do you recall what class you dropped?	21	at the VA in 2013, where was your assignment at?
22	A No, I don't recall.	22	I don't recall the unit.
23	Q Would that be reflected on your transcript that	23	Do you recall what building it was in?
24	you withdrew from the class?	24	It wasn't in the spinal, no. And no, I don't
25	A Yes.	25	recall the building.
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1	Q Where were you in school at that time?	1	But it occurred at Wade Park?
2	A Indiana State University.	2	Yes.
3	Q And the next page which is Bates-stamp page 99	3	Do you know how long that student nursing
4	and it is note from July 22nd, 2013, the third	4	assignment lasted?
5	sentence says, "Annette has a meeting with her	5	The semester and I don't know, anywhere from ten
6	attorney and the VA EEO for a mediation session	6	to 13 weeks. I can't speculate. I can't
7	on July 29th about being reassigned to a	7	pinpoint the exact.
8	different location for her final field placement	8	What type of duties were you performing during
9	to finish her degree. She expressed her fears	9	your student nursing?
10	about returning to a hostile work environment	10	What an RN -- student RN does, everything, as
11	with several nurses who are friends of her	11	long as I have a preceptor with me.
12	perpetrator." Was there some issue about a	12	And was your ability to critically think as a
13	field placement for your degree?	13	nurse affected during the time period that you
14	A Can you?	14	were doing your student nursing at the Wade Park
15	Q I'm just reading what's in the record here.	15	campus?
16	A The field placement is I had to be on campus	16	Yes, it was.
17	there.	17	And did you make any requests for accommodation
18	Q And was the field placement part of your job or	18	from either the school or VA during that time
19	was that part of your education?	19	period?
20	A Part of my education.	20	I did it at the VA.
21	Q Did you actually perform your field placement at	21	Was that your request for accommodation, was
22	the VA?	22	that in relationship to your student nursing?
23	A I did.	23	No.
24	Q And when was that?	24	Were there any of your student nursing duties
25	A During this time. I can't recall the dates.	25	that you felt you were unable to perform as a

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1	result of your inability to think critically as 2 a nurse?	1 A No, she was part of my -- of our suit. It was 2 me and her in the beginning.
3 A	Yes.	3 Q Your lawsuit wasn't filed in court in 2013; 4 correct?
4 Q	Which duties were you unable to perform during 5 your RN student nursing?	5 A Right.
6 A	When I flunked that rotation, so that kind of 7 gives the answer.	6 Q So you don't mean an actual lawsuit at the time?
8 Q	And who determined the grade that you received 9 for that rotation?	7 A Then, no, I'm sorry, I don't know the law terms.
10 A	Indiana State University.	8 Q On the next page which is Bates-stamped 96, it 9 is from August 27th, 2013, under "Client 10 Response," it says, "Annette was tearful at the 11 beginning of today's session as she proceeded to 12 share recent disappointing news about the VA 13 telling her she could not complete her 90 hour 14 placement with them for her med./surg. rotation 15 as she initially had planned for and had been 16 accepted for." Do you recall telling your 17 clinician that?
11 Q	Was it simply because of the actual performance 12 or did you have testing involved like actually 13 having to sit down and take written exams?	18 A The clinician -- I'm trying to think. It's not 19 a disciplinary action. It was more with money.
14 A	And I would take written exams.	20 Q And according to page 95, which was from a visit 21 that happened on September 11, 2013, under 22 "Client Response," it says, "Annette feels 23 unable to return to her place of work in the 24 same building that she was assaulted and 25 sexually harassed in. She has been refused
15 Q	Were the written exams part of your grade?	
16 A	Yes.	
17 Q	Did you make any critical mistakes during your 18 student nursing in terms of patient care?	
19 A	No, I didn't have that total control.	
20 Q	Were you reprimanded for any type of nursing 21 care that you provided as a student RN?	
22 A	No.	
23 Q	So did you repeat that rotation, that student 24 nursing rotation?	
25 A	I believe I did.	
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1 Q	Do you know where you repeated it at?	1 opportunities to transfer and recognizes needing 2 to seek employment elsewhere while this lengthy 3 process of bringing charges to trial occurs. 4 Annette reviewed why she did not leave her place 5 of employment earlier."
2 A	I can't recall.	6 When you say refused a transfer, 7 specifically you're talking about refused a 8 transfer during a mediation?
3 Q	And turning to the next page, I'm sorry, the 4 page that's marked 97 which is from an August 5 5th, 2013 date, under "Describe Staff 6 Therapeutic Intervention Provided" there is 7 sentence, last sentence, "Clinician provided a 8 letter to Annette that she had previously 9 requested as evidence of her attendance in 10 therapy to take to her own mediation session." 11 Is that the August 5th, 2013 letter that we 12 previously talked about?	9 A I asked for a transfer from the first day that I 10 reported this, so that's what I'm referring to. 11 Q So who actually refused to transfer you?
13 A	I can't recall that. I can't answer that. I 14 don't know.	12 A Beth Noelker. 13 Q Did she tell you, "I'm not transferring you"?
15 Q	And under "Client Response to Intervention," it 16 says "Annette was tearful as she spoke about 17 recent knowledge of her co-worker having a 18 mediation session about sexual harassment by the 19 same perpetrator as her own and the less than 20 ideal outcome." What do you mean by less than 21 ideal outcome?	14 A Yes, she did. 15 Q When did she tell you that?
22 A	She had to sign-off. Roseann had to sign-off 23 her part in the lawsuit in order for them to 24 reassign her.	16 A I can't recall. 17 Q So it could have been at the mediation as well? 18 A It could have been, but I wasn't dropping the 19 case.
25 Q	When you say lawsuit, the EEO complaint?	20 Q So you don't know the specific date that Beth 21 Noelker told you she was not going to transfer 22 you? 23 A No. 24 Q That's a no? 25 A No.

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1 Q	At any time did anyone at the VA tell you you no 2 longer had your job on the spinal cord unit 3 during 2013?	1 harassing or threatening you, did you have any 2 interaction? Did you run into them? Did they 3 speak to you, anything like that?
4 A	Not until I got that letter.	4 A Yes.
5 Q	Are you talking about the proposed removal 6 letter in 2014?	5 Q And I'm specifying the fall of 2013 while you 6 were doing your student nursing.
7 A	Correct.	7 A I ran into them, yes.
8 Q	Did anyone tell you could not come back to work 9 in the spinal cord unit prior to getting that 10 letter in 2014?	8 Q Did you have any interaction with them?
11	MS. PIZZINO: Objection.	9 A Nonverbal communication.
12 A	I don't know how to answer that.	10 Q Such as?
13 Q	Let me requalify that. Did anyone at the VA 14 tell you you could not return to work at your 15 position on the spinal cord unit in 2013?	11 A Not speaking to me at all.
16 A	They wanted me to go back to work there.	12 Q Then next page is page 92. It's from October 13 17, 2013, and it says under "Describe Staff 14 Therapeutic Interventions," the last sentence 15 says, "Encouraged Annette to look at alternative 16 work sites to use her nursing skills." And then 17 "Client Response," third sentence, "Annette will 18 find different parking to avoid running into 19 anyone she previously worked with at the other 20 building due to this feeling traumatized due to 21 the association with her perpetrator." This is 22 talking about student nursing?
17 Q	So no one told you you could not go back to work 18 there?	23 A Yes.
19 A	Correct.	24 Q And "Annette will continue to look for 25 alternative sites for continued employment as
	Page 235	Page 237
1	with the lawsuit." I think I asked you about 2 this earlier. Does this bring any recollection 3 back as to whether or not the mediator was 4 present?	1 she finishes her RN degree," so is this when you 2 started working at U.S. Wellness doing the flu 3 shots?
5 A	I can't answer that. I don't recall.	4 A I can't tell you when I exactly started that. I 5 don't know, but that's not what that's in 6 reference to. She wanted me to go off-site, not 7 to the VA, but I never ended up there, because I 8 flunked out.
6 Q	The next page is page 93 and it is dated October 7 8, 2013. Under "Client Response to 8 Intervention," it says, "Annette will be 9 starting her clinicals (90 hours) at the VA in a 10 different building from where her assault/sexual 11 harassment occurred. She will make arrangements 12 to complete her second clinical at Summa 13 hospital to exit the VA site as soon as possible 14 due to her mistrust of being treated fairly by 15 the VA Hospital."	9 Q This was in reference to going off site to do 10 your student nursing?
16	So does this jog your recollection about 17 when you did your actual student nursing?	11 A Yes.
18 A	I did do my student nursing. I never ended up 19 at Summa, because I flunked out again.	12 Q Can you take a look at page 88 please dated 13 1/28/14. It says, "Client agreed to transfer 14 for workers and reviewed her diagnosis and 15 history of her recent need for counseling." Is 16 this when you began to see Diane 17 Setlak-Micheller?
20 Q	At the time that you did your student nursing at 21 the VA in presumably the fall of 2013, did you 22 have any interaction with your former co-workers 23 on the spinal cord unit?	18 A I can't recall.
24 A	Specifically, I don't know what you're asking.	19 Q Do you have any recollection of seeing her in 20 2013?
25 Q	I'm asking the people that you believe were	21 A It must be, because Diane is the one who signed 22 it.
		23 Q If you'll take a look at page 86 please under 24 "Client Response to Intervention," it says, 25 "Client entered therapy tearfully and processed

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1	needing a letter from her doctor" -- I'm sorry, 2 are you still looking for the page?	1 to move forward.
3 A	Yeah.	2 Q Did you have any intention of returning to the 3 VA as of the time that you took the job at 4 Heritage of Hudson?
4 Q	Take your time and let me know when you have it. 5 Ready?	5 A I don't know what I felt. I never got an offer 6 so.
6 A	Uh-huh.	7 Q But at the time that you accepted the position 8 at Heritage of Hudson, you had not been 9 terminated from the VA; correct?
7 Q	Under "Client Response," it said, "Client 8 entered therapy tearfully and processed needing 9 a letter from her doctor for the Attorney 10 General's Office to maintain that she cannot 11 work before April of 2014"; do you recall saying 12 that?	10 A Correct.
13 A	No, I don't.	11 Q If you would turn to Bates-stamp page 2697 of 12 the exhibit, it indicates that your annual 13 salary was \$45,760; does that comport with your 14 recollection?
14 Q	Do you deny making that statement?	15 A Yes.
15 A	I don't recall.	16 Q Were you eligible for overtime at Heritage of 17 Hudson?
16 Q	Do you deny it?	18 A I don't know if I was. I can't recall.
17 A	I don't remember making that statement.	19 Q And under "Job Details," it lists a pay 20 frequency of biweekly and scheduled hours 80 21 hours biweekly?
18 Q	Was there some reason that you could not return 19 to work before April of 2014?	22 A Correct.
20 A	No.	23 Q And how long did you work at Heritage of Hudson?
21	(Government's Exhibit MM was marked for 22 identification.)	24 A It was a short time, because I ended up having 25 surgery, because I fell.
23 Q	Ms. Ryan, I've just handed you what's been 24 marked as Government's Exhibit MM and this is 25 the records that we received in response to a	
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1	subpoena to Heritage of Hudson.	1 Q I think I saw in your records that you fell some 2 time in May of 2014; does that sound about 3 correct?
2 A	Uh-huh.	4 A Yes.
3 Q	You said you accept employment at Heritage of 4 Hudson?	5 Q After you fell, did you have to go on leave from 6 Heritage of Hudson?
5 A	Yes.	7 A Yes.
6 Q	And according to Exhibit MM, it says that you 7 were hired at Heritage of Hudson on April 3rd, 8 2014; do you see where it says seniority on the 9 bottom of page one?	8 Q Were you on leave or had you resigned before?
10 A	Yes.	9 A No, I wanted to go back, but I had to have 10 another surgery, so I ended up quitting.
11 Q	And you were hired as an LPN?	11 Q And if you will turn to Bates-stamp page 2699, 12 it is termination information and it says that 13 you were terminated, and I don't mean that in 14 terms of fired.
12 A	Correct.	15 A No.
13 Q	And if you turn to page two, it shows that you 14 were hired full time?	16 Q It says, "Terminated September 9th, 2014. Last 17 day worked was August 17, 2014," does that 18 comport with your recollection?
15 A	Correct.	19 A Yeah, I don't know the exact date.
16 Q	Were you working as a supervisor at Heritage of 17 Hudson?	20 Q But around that time frame?
18 A	Yes.	21 A Yes.
19 Q	When you started working at Heritage of Hudson, 20 did you notify the VA?	22 Q And it says, "Did not give notice. Stated she 23 did not want to be lifting at her age." Is that 24 information you provided to your employer?
21 A	I notified my attorney.	25 A No, I did not. I didn't -- the notice, yeah, I
22 Q	Was it your intent to only work at Heritage of 23 Hudson while your EEO complaint was going 24 forward?	
25 A	I can't speculate on what I intended. I wanted	

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1	don't -- I was off. I just had surgery so.	1 Q During the time that you were off at the VA, did
2 Q	You had had surgery in September?	2 you have medical coverage?
3 A	I had surgery when I fell. I had to have	3 A I had medical coverage until they fired me.
4	another surgery the same place.	4 Q Up until?
5 Q	Well, it indicated that you worked in August, so	5 A 2014 and then I got Obamacare.
6	I thought maybe you went back.	6 Q And currently you are working at Brookdale in
7 A	I did. I went back, but I wasn't allowed to	7 Florida? You can answer. I got the records.
8	lift patients or do CPR.	8 The Judge will order to give the records so.
9 Q	So because of your injury, you could not lift or	9 A Yes.
10	do CPR?	10 Q And are you still doing home health LPN work
11 A	Yeah.	11 through Brookdale?
12 Q	How long were you off after you had had surgery	12 A Yes.
13	the second time?	13 Q Is that on a per visit basis?
14 A	I don't recall.	14 A No.
15 Q	After you left Heritage of Hudson based on the	15 Q Do you have any guaranteed number of visits or
16	employment records that we have received	16 do you just have a guaranteed salary?
17	pursuant to the subpoena, you were applying for	17 A I have a guaranteed salary.
18	that position as a home health nurse?	18 Q Is that an hourly salary or a flat rate?
19 A	Correct.	19 A Hourly.
20 Q	Were those the only jobs you were seeking?	20 Q And what's your hourly salary?
21 A	That and the flu clinics.	21 A 27.
22 Q	Flu clinics. You didn't seek any type of	22 Q Are you guaranteed, at least, 40 hours a week?
23	employment in a hospital or clinic?	23 A But I work overtime, yes.
24 A	No, I did not want to work in a hospital.	24 Q But you're guaranteed 40 as a baseline?
25 Q	And when you do the home health, are those paid	25 A Correct.
	Page 243	Page 245
1	by appointments?	1 Q And through Brookdale, do you have insurance,
2 A	Correct.	2 health insurance?
3 Q	And are you guaranteed a certain number of	3 A Yes.
4	appointments per week?	4 Q And what is the cost of your health insurance?
5 A	There's never a guarantee, no.	5 A \$800 a month.
6 Q	And you worked for several agencies at the time	6 Q \$800 a month?
7	that you were doing your home health nursing?	7 A Yes.
8 A	Correct.	8 Q Do you have any of the paperwork that detail the
9 Q	And when you were doing the home health nursing,	9 cost of the various health plans through
10	you were employed as an LPN?	10 Brookdale?
11 A	Correct.	11 A Yes.
12 Q	And the home health nursing positions that you	12 Q Can you provide that to your attorney please?
13	applied for paid between like \$20 and \$25; is	13 A Yes.
14	that correct?	14 Q I was looking at your payroll stuff --
15 A	Correct.	15 MS. PIZZINO: Excuse me, Renee,
16 Q	Were you ever eligible for medical benefits when	16 can you state specifically the document you're
17	you were working for the different companies	17 looking for, so I can write it down.
18	doing visits?	18 MS. BACCHUS: Any information
19 A	No.	19 -- you know when you start a new job, your
20 Q	What did you do for medical coverage?	20 employer gives you the various health plans and
21 A	My husband.	21 they tell you the cost of the health plans and
22 Q	By the way, when did you get married?	22 the price of it.
23 A	April 15th.	23 (Government's Exhibit NN was marked for
24 Q	What year?	24 identification.)
25 A	2015.	25 Q Ms. Katz, I'm going to represent to you that

	Page 246	Page 248
1	these are the documents about your current	1 of overtime \$5,000 monthly," do you see that?
2	employment which your attorney has provided to	2 A With overtime, yes.
3	me.	3 Q So you're saying that was your average with
4 A	Okay.	4 overtime?
5 Q	And if you will, I'm sorry, unfortunately,	5 A Correct.
6	they're not numbered in pages, but if you would	6 Q Was overtime guaranteed at the VA?
7	go to the fifth page in from the back please.	7 A No.
8	It is your pay stub. It looks like it was	8 Q If you turn to the third page in at the top
9	December 9th, 2016, and according to the pay	9 under section six, there's a statement that
10	stub, you are paying \$20.47 biweekly for dental,	10 said, "The VA made me take advanced sick, so I
11	medical-silver BT, whatever that stands for,	11 will be negative sick time," do you see that?
12	\$271.71 and vision \$12.05; is that correct?	12 A Yes.
13 A	Correct, and that's biweekly.	13 Q Did you apply for advanced sick leave or did
14 Q	When you were working at Heritage of Hudson, did	14 they tell you you had to take advanced sick
15	you have health insurance through Heritage of	15 leave in order to be off?
16	Hudson or were you still receiving it through	16 A Told me that I had to take it.
17	the VA?	17 Q That you had to?
18 A	I can't recall.	18 A Had to.
19 Q	I'm going to hand you a few documents for	19 Q Are you aware that under the union contract, you
20	purposes of identification. I'd like to believe	20 were allowed to be off without pay?
21	that after that, we should be getting done.	21 A No, I did not.
22	(Government's Exhibit OO was marked for	22 Q Would you have preferred to be off without pay?
23	identification.)	23 A I had bills to pay.
24 Q	Ms. Katz, I've handed you what's been marked as	24 Q So did you want the advanced sick time?
25	Government's Exhibit OO. I'll represent to you	25 A Yes.
	Page 247	Page 249
1	that we have subpoenaed the Ohio Victims of	1 Q And were you also given advanced annual leave?
2	Crimes Compensation Program for the records	2 A Yes.
3	regarding your request for compensation from the	3 Q Did you ever pay that advanced sick time or
4	sexual assault by MD Garrett. And these are	4 annual leave back to the VA?
5	documents that we received from the Victims of	5 A No, not that I can recall.
6	Crime Department. Have you seen this document	6 (Government's Exhibit QQ was marked for
7	before?	7 identification.)
8 A	Yes.	8 Q I've handed you what's been marked Government's
9 Q	And did you complete the document?	9 Exhibit QQ. It is a second Ohio Victims of
10 A	Yes.	10 Crime Compensation Program for Supplemental
11 Q	And at the top, it's stamped I believe the	11 Compensation Application." Have you seen this
12	actual claim number is v13-41713; does that	12 document before?
13	comport with your recollection?	13 A Yes.
14 A	Yes.	14 Q And if you turn to page two, there's a notation
15 Q	I'm going to hand you what we're going to mark	15 that, "The Workers' Compensation will only pay
16	Government's Exhibit PP.	16 for straight pay, not my overtime in which I
17	(Government's Exhibit PP was marked for	17 worked. I worked a lot of overtime which was
18	identification.)	18 figured out by Debbie Miller."
19 Q	Ms. Katz, I've handed you Government's Exhibit	19 A Yes.
20	PP which is entitled, "Ohio Victims of Crime	20 Q So is that the purpose of the supplemental
21	Compensation Program, Supplemental Compensation	21 application was to give compensation for
22	Application." Have you seen this document	22 overtime?
23	before?	23 A Correct.
24 A	Yes.	24 (Government's Exhibit RR was marked for
25 Q	And at the bottom, it said, "I made an average	25 identification.)

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1 Q	Ms. Katz, I'm handing you what's been marked as Government's Exhibit RR. This appears to be titled, "Request For Full Payment And Waiver Of Reconsideration" and it's in regards to claim number v13-41713-0 and it's dated October 23rd, 2013 and states, "I agree with the Attorney General's Finding of Fact and Decision and am requesting that payment be made immediately. I understand that by signing this document, I am giving up my right to appeal" and it is signed by you on November 6, 2013, on the front page; is that correct?	1 Exhibit. Accordingly, the amounts totaling \$32,264.56, as listed on the attached Award Summary, will be paid. 4 And on the very last page of the exhibit is the "Request For Full Payment" for this claim and "Waiver of Reconsideration", and again, it says, "I agree with the Attorney General's Finding of Fact and Decision and am requesting that payment be made immediately. I understand that by signing this document, I am giving up my right to appeal." You signed this on October 9th, 2014; is that correct?
13 A	Yes.	13 A Correct.
14 Q	And according to the second page, it appears that for that claim, you were awarded \$375.77; is that correct?	14 Q And I believe you told me previously that your Workers' Comp claim had been approved, your Workers' Compensation claim? 17 A For which dates?
17 A	Yes, correct. (Government's Exhibit SS was marked for identification.)	18 Q Oh, I'm sorry, related to MD Garrett's sexual assault. 20 A Yes.
20 Q	Ms. Katz, I'm handing you what's been marked as Government's Exhibit SS. It too is an awards summary from the Ohio Attorney General Ohio Victims of Crime Compensation Program. At the top, it says, "Decision Date March 3rd, 2014 and the claim number is S-V13-41713-1; do you see	21 Q And according to the documents I received from Workers' Compensation, once you submitted a documentation that you had a dependent, your claim was paid at three-fourths of your normal hourly salary?
	Page 251	Page 253
1	that?	1 A Correct.
2 A	Yes.	2 Q And do you recall what period of time you actually received the payments from Workers' Comp?
3 Q	It appears that you were awarded \$130.05; correct?	4 A No, I do not recall.
5 A	Correct.	6 Q Give me a second. I have the documents from Workers' Comp. No, actually, I cannot find that document at this point in time.
6 Q	And on the page two of that exhibit is a "Request For Full Payment And Waiver Of Reconsideration" for this claim and, again, it says, "I agree with the Attorney General's Finding of Fact and Decision and am requesting that payment be made immediately. I understand that by signing this document, I am giving up my right to appeal." It's signed March 11th, 2014, by yourself?	7 A When you were paid by Workers' Compensation, do you recall how much you received as a lump sum?
10 A	Correct. (Government's Exhibit TT was marked for identification.)	8 A I don't recall.
11 Q	Ms. Katz, I've handed you what's been marked as Government's Exhibit TT. The first sheet is a fax sheet and it's to the Ohio Attorney General and it says from yourself. Page two is dated October 9th, 2014, and it has a claim number V13-41713-2. And at paragraph four, it states, "You incurred work loss as listed on the attached Detail Expense Exhibit and Work Loss	9 Q Did you receive any payments from Workers' Compensation in 2016?
12 Q		10 A I don't recall.
13 Q		11 Q Do you have any records of the payments that you received from Workers' Compensation?
14 Q		12 A My attorney did.
15 Q		13 Q And your attorney -- if you would have received records of compensation that you received during 2016, those would have went to Ms. Kurt?
16 Q		14 A Yes.
17 Q		15 Q So how would you have been paid; would you have been paid through Ms. Kurt?
18 Q		16 A No, it went to my home, but I had to hand over

	Page 254	Page 256
1	the copies to her.	1 when these sexual assaults were going on?
2 Q	So did you receive actual checks?	2 A Yes, I mean, back and forth. I mean, I lived
3 A	Yes.	3 there and then I had my own residence.
4 Q	Did you deposit those checks in your account?	4 Q So when you say "lived there," you weren't
5 A	I believe so, yes.	5 living with him full time?
6 Q	So you would have some records of payments that	6 A Correct.
7	you received from Workers' Comp?	7 Q So were you going and maybe staying a couple
8 A	Yes.	8 nights and then going home?
9 Q	I would ask that you review your checking	9 A Correct.
10	account records and provide us with any copies	10 Q You list Roseann McDevitt and we talked about
11	of payments that you received from Workers'	11 what she knows; correct?
12	Compensation subsequent to during 2016 or if you	12 A Correct.
13	received any payments during 2015.	13 Q And did Roseann ever see Mr. Garrett sexually
14 A	Okay.	14 harassing you, to your knowledge?
15	MS. PIZZINO: We can go off the	15 A I don't believe so.
16	record for just a second.	16 Q And you list Jamila Bell and that's the union
17	(A discussion was had off the record	17 rep; correct?
18	and a short break was taken.)	18 A Correct.
19	MS. BACCHUS: We're going to go	19 Q Anyone else that we haven't talked about today?
20	back on the record.	20 A Not that I can recall.
21	Ms. Bacchus:	21 MS. PIZZINO: Didn't we list
22 Q	Ms. Katz, under witnesses, in your answers to	22 Lisa Herman on there?
23	Interrogatories Number 17, you listed Ted	23 Q No, you did not. Although I do believe that for
24	Hunkele and we've already talked about him;	24 one of the questions you listed as a witness
25	correct?	25 Nancy LaSalvia; does that sound right?
	Page 255	Page 257
1 A	Correct.	1 A That's my sister.
2 Q	You listed doctors and counselors identified	2 Q And what knowledge does she have?
3	above. Would that be Wanda Hively, Michelle	3 A I guess, just how I am as far as a family
4	Setlak?	4 member.
5 A	I think it's Diane Setlak-Micheller.	5 MS. PIZZINO: Renee, on our
6 Q	Thank you. Any other doctors or counselors?	6 initial disclosure, not mine technically, but
7 A	Just the ones that the VA had me go to.	7 they were Attorney Kurt's, that's where she
8 Q	Okay. And you're talking about the examination	8 listed Beth Noelker and Lisa Herman.
9	yesterday?	9 MS. BACCHUS: I'm just asking
10 A	Yes, and then Dr. DeLong.	10 her about her response to Interrogatories.
11 Q	You said the VA had you go to. The Department	11 Q According to the records that we received from
12	of Labor sent you to Dr. DeLong and Dr. Korikee	12 Catholic Charities, you stopped going to therapy
13	[phonetic]; correct?	13 in 2014; does that comport with your
14 A	Correct.	14 recollection?
15 Q	And that was part of your Workers' Compensation	15 A From what I can recall, yes. Diane was the last
16	claim?	16 person I saw there.
17 A	Correct.	17 Q I'm looking at Exhibit KK, according to Diane's
18 Q	And then you list Steve Katz, your now husband.	18 records, the last entry date was in -- I'm
19 A	Correct.	19 sorry, the last entry date was May 2014 and it
20 Q	What knowledge does Mr. Katz have regarding your	20 states that "The client has not been in for
21	claim?	21 several weeks." Does that comport with your
22 A	How I felt, my relationships with the family,	22 recollection?
23	how I communicate with people, how tearful I	23 A Yes.
24	was, and then in our relationship.	24 Q Did you have any other mental health counseling,
25 Q	And did you live with Mr. Katz during 2012/2013	25 treatment, or psychological therapy with anybody

	Page 258		Page 260
1	following your treatment at Catholic Charities?	1	Did you ever tell Dr. Holmer that you were experiencing panic attacks?
2	A I continued to go to my doctor, Dr. Holmer.	2	A I can't recall.
3	Q Dr. Holmer prescribed medications for you?	3	Q There's a notation in your responses to
4	A Correct.	4	5 Interrogatories that as part of your treatment
5	Q Did you treat with anyone else regarding your	6	6 you were prescribed massage therapy?
6	mental health or the issues or diagnosis as a	7	7 A Correct.
7	result of your sexual harassment?	8	8 Q According to Dr. Holmer's records, you told her
8	A No.	9	9 you wanted to try massage therapy, so did you
9	Q Other than Catholic Charities, have you received	10	10 tell her you wanted to do this or did she
10	any other mental health counseling, psychiatric	11	11 prescribe it to you?
11	counseling, or psychological counseling from	12	12 A She told me that I could feel better doing that,
12	anyone else period?	13	13 because as a nurse and with the stress that I'm
13	A No.	14	14 carrying, that would help and that she would
14	Q I'm going to ask you this question and please	15	15 write me a script if I wanted to further do
15	don't take it the wrong way. I'm not trying to	16	16 this.
16	insult you, but there was a notation in your	17	17 Q So did you ever actually go to massage therapy?
17	records from Catholic Charities that stated that	18	18 A I did.
18	you had been sexually assaulted previously.	19	19 Q And do you have any records from that?
19	Were you ever sexually assaulted before?	20	20 A I paid for it out of my own pocket.
20	A No.	21	21 Q Did she ever write you a script prescribing
21	Q So the notations that said that you had been	22	22 massage therapy?
22	assaulted at work were incorrect?	23	23 A No, she didn't.
23	A Incorrect.	24	24 Q You say "because of stress," when you say
24	Q Your tax records seemed to indicate that you may	25	25 stress, what do you mean stress?
	Page 259		Page 261
1	have your own business at any point in time?	1	1 A Dealing with the continuous thinking about the
2	A No, that had to do with my divorce and alimony	2	2 episodes.
3	and so no.	3	3 Q Okay. Under Dr. Holmer's records, there is a
4	Q Okay. So no self-employment where you had your	4	4 list of various stressors and at various dates
5	own business?	5	5 and times, she would list stressors. And some
6	A No.	6	6 of the stressors that she listed for you was
7	Q There's been some other notations in your record	7	7 financial trouble. Was that causing you stress?
8	that says basically that part of your damages is	8	8 A Yes.
9	that you've been crying regularly. What do you	9	9 Q She was listing that you had issues with your
10	consider regularly?	10	10 daughter in the past; was that causing you
11	A More than usual. If you talked to me about that	11	11 stress?
12	earlier on, I would just crumble. I would have	12	12 MS. PIZZINO: Objection.
13	nightmares about him coming to my home. I was	13	13 Vague.
14	fearful.	14	14 Q I'm just asking. I don't know if you were or
15	Q But I mean, in terms of regularly, are you	15	15 not. I'm asking.
16	saying that you were crying for an hour a day or	16	16 A Children stressors.
17	are you crying just when you thought about this	17	17 Q One of the other stresses she listed is that you
18	incident?	18	18 got married. Was that causing you stress?
19	A Sometimes it could have been an hour a day. I	19	19 A That was the good part, but the stress in a
20	don't know what would have caused the crying.	20	20 relationship and having to deal with the
21	Sometimes it would just come on for no reason.	21	21 emotion.
22	Q There's also a notation in the records from	22	22 Q One of the other stressors I recall her listing
23	Catholic Charities from Wanda Hively that you	23	23 is the fact that you were moving to Florida.
24	experienced panic attacks; is that true?	24	24 Was that causing you stress?
25	A Correct.	25	25 A No, stressing leaving my family; yes.

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1 Q	There's a notation in Dr. Holmer's records that you asked her to send a letter to the Department of Labor Workers' Compensation Program in September of 2016 stating that you could no longer work at the VA Wade Park campus. Why did you ask her for that letter?	1 them? 2 A On the elevator. 3 Q Okay. And can you tell me about that?
7 A	I don't recall it being stated that way.	4 A I was going to my rotation and I was getting off the elevator and they were coming into the elevator, but they didn't see me and until --
8 Q	Okay. Do you recall asking her for a letter to be sent to the Department of Labor in September of 2016?	7 Q Did you say "hi" to them? 8 A Yes.
11 A	Yes.	9 Q What was their behavior towards you? 10 A They didn't say nothing. They ignored me as if I wasn't there.
12 Q	Why did you ask her for that letter?	12 Q Did they say anything to you at all? 13 A No.
13 A	Because Workers' Comp stated that I had to get a letter from my doctor to re-open the case.	14 Q Did they say anything to each other? 15 A Yes.
15 Q	So you were trying to re-open your Workers' Comp case?	16 Q Tell me about that. 17 A They whispered to each other. I didn't hear what they were saying. I felt very uncomfortable.
17 A	Yes.	20 Q And you had indicated that you are not being able to perform your job duties. Was there anything other than your inability to concentrate and focus on your nursing tasks that would have prevented you from working?
18 Q	Were you successful in getting that case re-opened?	25 A Yes.
20 A	No.	
21 Q	So you didn't receive any additional compensation?	
23 A	No.	
24 Q	Did you file another application to get it re-opened?	
	Page 263	Page 265
1 A	No.	1 Q Can you tell me what other things may have prevented you from that?
2	MS. BACCHUS: I think that's about all the questions I have for today. I am not going to conclude the deposition, because there's still some documents outstanding, but pretty much that has to do, I'm assuming, with your damages and I don't think we need to get into any of those issues until after summary judgment unless I receive documents based on what we requested today that deals with your claim, but we're over for now.	3 A Going to my counselor, my doctor's appointments, meeting with Pam at the time, my attorney at the time, having to constantly talk about the trauma to my doctors and trying to deal with that.
12	MS. PIZZINO: I just have a couple.	7 Q Was there any other physical limitations that you had?
14	MS. BACCHUS: Sure.	9 A What do you mean?
15	REDIRECT EXAMINATION	10 Q Well, I mean you mentioned just a few minutes ago that you used to cry a lot. Would that have prevented you from carrying out your nursing duties?
16	By Ms. Pizzino:	14 A Yes.
17 Q	At the time that the assault or series of assaults from MD began some time in mid 2013, were you on any medications at the time the assault began?	15 MS. PIZZINO: That's all.
21 A	No.	16 MS. BACCHUS: Okay. I have some follow-up questions.
22 Q	And when Attorney Bacchus was questioning you earlier, you indicated that you would see co-workers from the spinal cord unit. You named Andrea, Princess, Ebony. Where did you see	18 RECROSS-EXAMINATION
22 A	Ebony Winters, Teresa, I can't think of her last name, Andrea Swails, and Princess Jefferson.	19 By Ms. Bacchus:
23 Q	And you said they were whispering, but you didn't hear what they were saying?	20 Q You said that when you got on the elevator with them, who specifically was on the elevator?
24 Q		22 A Ebony Winters, Teresa, I can't think of her last name, Andrea Swails, and Princess Jefferson.
25 Q		24 Q And you said they were whispering, but you didn't hear what they were saying?

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1 A	No, I just felt uncomfortable as though they	1 you believe it would have affected your ability
2	were talking about me.	2 to do your job anywhere other than the Wade Park
3 Q	But you don't know if they were talking about	3 VA?
4	you; correct?	4 A I believe if I don't have a constant reminder of
5 A	I don't know.	5 the trauma that I went through, I believe I
6 Q	And when did this happen?	6 could do my job, yes.
7 A	During my rotation.	7 Q And you said that the appointments with your
8 Q	Do you know what month that would have been in?	8 doctor and counselors and everything, meeting
9 A	No, I do not.	9 with the lawyers, prevented you from being able
10 Q	You said you were crying a lot and you said that	10 to work?
11	would have prevented you from doing your job?	11 A Absolutely. I was filing paperwork after
12 A	Yes.	12 paperwork, doctor visits, yes.
13 Q	Okay. And when you said you were crying a lot,	13 Q So that is a function of needing to complete the
14	your records seemed to indicate from Dr. Holmer	14 paperwork and going to your doctor visits and so
15	that you were still crying a lot all the way up	15 you physically were unable to go to work?
16	until December of 2013; is that true?	16 A Yes.
17 A	She saw me at the times when I had to talk about	17 Q And were these doctor's appointments and
18	it, when I had to talk about the issues. When I	18 counselor's appointments all day?
19	don't talk about it, when I don't have to have	19 A Some of them were, yes.
20	them raise it or being on the floor having to	20 Q And so were you able to work on the days when
21	work in that area, that's different.	21 you did not have to go to the counselors or to
22	I'm having to go to my doctor's office and	22 the doctor's appointments?
23	I'm having to deal with those issues, so I'm	23 A I didn't work until I did my independent work,
24	going to breakdown and cry.	24 you know, working at the flu clinics.
25 Q	But I'm saying the doctor said that you were	25 Q Right. My question is: Were you physically
	Page 267	Page 269
1	still having crying spells and crying a lot as	1 able to go to work on the days that you weren't
2	late as the last FMLA form that she completed	2 meeting with the counselors or doctors?
3	for you in September of 2003 [sic] extending	3 A No.
4	your time off until December 2nd, 2003 [sic];	4 Q You were not?
5	was that a true statement?	5 A No.
6 A	Yes.	6 Q So you weren't able to work at all?
7 Q	And the crying affected your ability to do your	7 A No.
8	job?	8 Q Your counselor asked were you on medication at
9 A	In 2013?	9 the time before the assault happened. Do you
10	MS. PIZZINO: You said 2003.	10 recall that in September of 2012 you went to see
11 Q	I'm sorry, I meant 2013.	11 Dr. Holmer and said that you believe you suffer
12 A	In 2013, yes.	12 from seasonal depression?
13 Q	So the crying a lot affected your ability to	13 A September 2012?
14	perform your job functions as an LPN up until,	14 Q Yes.
15	at least, December 2nd, 2013?	15 A Around the time that I was dealing with MD.
16 A	Correct.	16 Q But do you deny telling Dr. Holmer that it was
17 Q	And after December 2nd, 2013, were you still	17 seasonal depression?
18	having crying spells that affected your ability	18 A I didn't use the word "seasonal depression," no.
19	to do your job?	19 Q So if those words appear in her records, she's
20 A	I still have crying spells even now, but it's	20 mistaken?
21	not as frequent.	21 MS. PIZZINO: Objection.
22 Q	Does it affect your ability to perform as an	22 Speculation.
23	LPN?	23 A Yeah.
24 A	No.	24 Q What words did you use?
25 Q	When you were having the crying spells in 2013,	25 A I don't recall.

Plaintiff
March 2, 2017

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1	Q Did you tell her it was as a result of being sexually harassed at work?	1 SIGNATURE PAGE
2	A No.	2
3	Q Did you tell Dr. Holmer that your father had also suffered from seasonal depression?	3 In Re: Annette Ryan, (K.N.A. Katz) -v- Robert McDonald, Secretary of Department of Veterans' Affairs
4	A No.	4
5	Q And in 2010, do you recall that Dr. Holmer prescribed you anti-depressants?	5 Case Number: 1:15-CV-02384
6	A In 2010?	6 Deponent: Annette M. Katz
7	Q Yes.	7 Date: March 2, 2017
8	A Yes.	8
9	Q So you had been taking anti-depressants before the sexual harassment?	9 To the Reporter:
10	A I went through a divorce, a very bad divorce.	10 I have read the entire transcript of my
11	Q So is that a yes, you had been taking anti-depressants?	11 Deposition taken in the captioned matter or the same
12	A MS. PIZZINO: Asked and answered. You asked that on Direct and she answered yes.	12 has been read to me. I request that the following
13	Q And your divorce was when?	13 changes be entered upon the record for the reasons
14	A My divorce was 2007. I was married for 21 years and I went through a very bad divorce.	14 indicated.
15	Q Were you on anti-depressants prior to getting divorced?	15 I have signed my name to the Errata Sheet and the
16	A Yes, my divorce was four years long.	16 appropriate Certificate and authorize you to attach
17		17 both to the original transcript.
18		18
19		19
20		20 Annette M. Katz
21		21 Subscribed and sworn to before me this
22		22 day of , 2017
23		23
24		24 Notary Public
25		25 My commission expires: _____
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1	Q So you got divorced in 2007 and your divorce was four years long. Were you on anti-depressants prior to 2003?	1 I have read the foregoing transcript from page 1
2	A MS. PIZZINO: Objection.	2 through page 272 and note the following corrections:
3	Q Relevancy.	3 PAGE-LINE REQUESTED CHANGE REASON FOR CHANGE
4	Q You can answer.	4
5	A I don't recall.	5
6	Q If your medical records indicated that you were on anti-depressants prior to 2003, would you dispute that?	6
7	A No.	7
8	MS. BACCHUS: I have nothing further.	8
9	MS. PIZZINO: We'll read.	9
10	(Deposition adjourned at 5:28 p.m.)	10
11	(Signature not waived.)	11
12	---	12
13		13
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19		19
20		20
21		21
22		22
23		23
24		24
25		25 Annette M. Katz Date

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1 The State of Ohio,) SS: CERTIFICATE
2 County of Lake.)

3 I, Mary Bolas-Dietz, a Court Reporter and Notary
4 Public in and for the State of Ohio aforesaid, duly
5 commissioned and qualified, do hereby certify that the
6 within-named witness, Annette M. Katz, was by me, first
7 duly sworn to testify the truth, the whole truth, and
8 nothing but the truth in the cause aforesaid; that the
9 testimony then given by her was by me reduced to
10 stenotypy/computer in the presence of said witness,
11 afterward transcribed and that the foregoing is a true
12 and correct transcript of the testimony so given by her
13 as aforesaid.

14 I do further certify that this deposition was
15 taken at the time and place in the foregoing caption
16 specified, and was completed without adjournment.

17 I do further certify that I am not a relative,
18 counsel or attorney of either party, or otherwise
19 interested in the event of this action.

20 IN WITNESS WHEREOF, I have hereunto set my hand
21 and affixed my seal of office, at Cleveland, Ohio, on
22 this 9th day of March, A.D. 2017.

23

24 _____
25 Mary Bolas-Dietz, Court Reporter and
Notary Public in and for the State of Ohio.
My commission expires November 25, 2021.

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SIGNATURE PAGE

In Re: Annette Ryan, (K.N.A. Katz) -v- Robert McDonald, Secretary of Department of Veterans' Affairs

Case Number: 1:15-CV-02384

Deponent: Annette M. Katz

Date: March 2, 2017

To the Reporter:

10 I have read the entire transcript of my
11 Deposition taken in the captioned matter or the same
12 has been read to me. I request that the following
13 changes be entered upon the record for the reasons
14 indicated.

15 I have signed my name to the Errata Sheet and the
16 appropriate Certificate and authorize you to attach
17 both to the original transcript.

Annette M. Katz

Annette M. Katz

Subscribed and sworn to before me this

23 day of March, 2017

Heather B. My
Notary Public

My commission expires:



1 I have read the foregoing transcript from page 1
2 through page 272 and note the following corrections:
3

4 PAGE-LINE REQUESTED CHANGE REASON FOR CHANGE
5

6 pg 276, line 11 meant to say Charge
7 Nurse
8 not Nurse Manager
9

10
11
12
13
14
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16
17
18
19
20
21
22
23
24

25 Annette M. Katz

Date

3/23/17